

HISTORY OF USURY

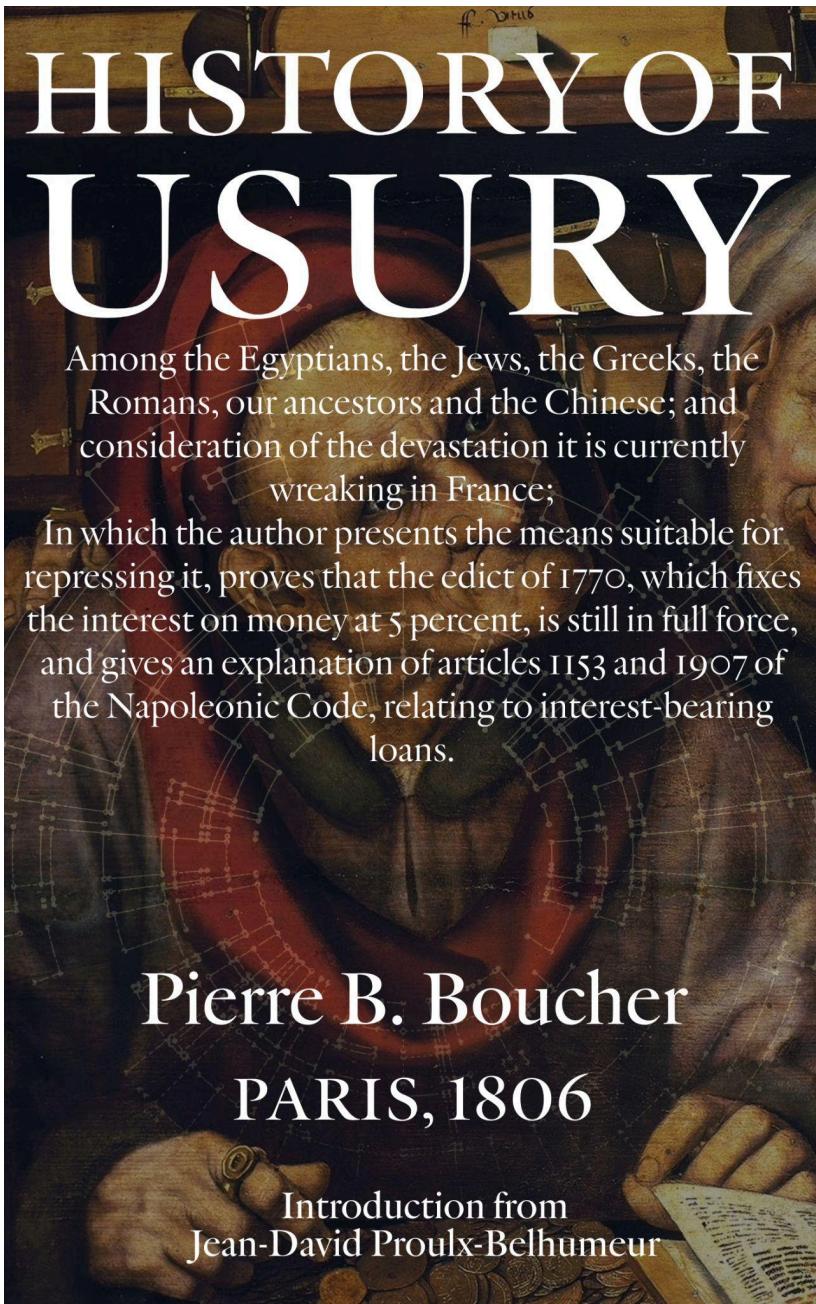
Among the Egyptians, the Jews, the Greeks, the Romans, our ancestors and the Chinese; and consideration of the devastation it is currently wreaking in France;

In which the author presents the means suitable for repressing it, proves that the edict of 1770, which fixes the interest on money at 5 percent, is still in full force, and gives an explanation of articles 1153 and 1907 of the Napoleonic Code, relating to interest-bearing loans.

Pierre B. Boucher

PARIS, 1806

Introduction from
Jean-David Proulx-Belhumeur



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INTRODUCTION

Usury humiliates and kills. It is an ancient and unfortunately still hidden evil which, like a snake, suffocates its victims. ... It kills life, tramples human dignity, encourages corruption, and poses obstacles to the common good. ... It is important to emphasize that many banks were born and spread throughout the world precisely to rescue the poor from usury with loans without collateral and without interest.

- Speech of Pope Francis to the Italian National Council of Anti-Usury Foundations

Clementine Hall, Vatican, 2018

The first form of official currency, the Mesopotamian shekel, appeared nearly 5,000 years ago. It was made of metals, usually gold, silver or copper. Nowadays, the vast majority of our transactions are obviously no longer done

with metal coins, or even with paper money. Our modern currency is completely dematerialized. Our payments are digitized and invisible. A question emerges: how can we create it if it is not physical? And who or what can do it?

For the brave, the process of creating currency is done through the allocation of special drawing rights by the International Monetary Fund and the World Bank in a floating exchange system where the currencies of each nation compete across the scales trading on an international spectrum of inflation-adjusted exchange rates which can then be used to create local debt issued by the Treasury in exchange for currency printed by the Central Bank. These currencies are then distributed to banks who can profit from them through a partial reserve leverage system. They are at this moment distributed in the economy thus creating an effect of inflation or deflation allowing us to observe the velocity of exchanges through an abstract token (in this case, our Canadian dollar), representing a promise of value in the

future depreciated by the rate of inflation and adjusted for return on investment.

With the arrival of money, followed the lending of money; and who says loan of money, says interest. For millennia, usury – defined as any lending of money at interest – was widespread throughout the world. Since the arrival of this practice more than 4000 years ago in Mesopotamia, it has been the subject of incessant criticism. In the Babylonian Talmud compiled by scholars half a century B.C. BC, it was defined as “receiving a reward for simply waiting.” ”

The writings were clear on the subject. Moses, Aristotle, Jesus, Buddha, Mohammed, Plato, Cicero, Plutarch, Aristophanes, Plautus, Demosthenes, Cato, Seneca, Saint Anselm, Saint John Chrysostom, Saint Thomas Aquinas, Saint Bonaventure, Saint Augustine, numerous councils and Ecclesiastical synods, numerous popes (most recently Francis) and many other historical figures have denounced interest on monetary loans, citing Holy Scripture and natural law. Cicero, in the second book of his

treatise *De officiis* , recounts the following conversation between an anonymous interlocutor and Cato:

What do you think of the usury loan?

Then Cato replied:

What do you think about the murder?

The moral behind this criticism was simple: protect the lamb from the wolf like the fable of Jean de La Fontaine, or more precisely Antonio de Shylock like the work of Shakespeare. In other words, this condemnation of the “right of the strongest” was with the aim of preventing the richest from taking advantage of the poorest, more precisely with regard to necessities.

Its use in the modern French language is so rare that it would be difficult to find someone who would define the word usury other than as the “deterioration or deterioration of an object through its use.” For modern economists, a usurious practice in the financial sphere is simply characterized by a loan whose interest

rate is arbitrarily considered to be too high. Historically, however, usury designated all interest on all monetary loans regardless of the rate.

The author of the book *Histoire de l'Usure*, Pierre B. Boucher, born in Bordeaux in 1758, was a French jurist and politician. He became a professor of commercial and maritime law at the University of Paris. His main works concern commercial institutions, merchant jurisprudence and maritime law. This book, published in 1806, was a great success. Pierre was then appointed a member of the State Council, then moved to Saint Petersburg in 1809 as a commercial manager.

As the subtitle says, his book is specifically about:

the ravages that interest-based money lending is currently causing in France; In which the author presents the means suitable for repressing it, proves that the edict of 1770, which fixes the interest on money at 5 percent, is still in full force,

and gives an explanation of articles 1153 and 1907 of the Napoleonic Code, relating to interest-bearing loans.

Even though this book dates from the beginning of the 19th century and concerns France, the pernicious effects of lending money at interest are greatly felt throughout the world. Because of this Ring of Sauron, which allows the value of labor to be invisibly stolen, combined with the central banking system which monetizes debt and causes inflation: the cost of mortgages, food and transportation are all higher than ever. In Canada, in 2024 it takes two average salaries instead of just one compared to 40 years earlier to acquire a property at the average price.

Equifax Canada data indicates that about 50 per cent of Canadians live paycheck to paycheck, Sue Hutchinson, president of Equifax Canada, told CTV News Channel. Data from a Food Banks of Canada study determined that 25% of Canadians live on the poverty line

because they cannot afford two or more essential products.

In fact, money can only be productive in the hands of the person who works to make it grow. If a person invests a sum of money in a craft or commercial enterprise, it remains his property and, in the same way as his partners, he participates in the risks and he can lawfully claim, as coming from his property, part of the profit made. . Receiving usury in exchange for money lent is unjust in itself, because one is selling what does not exist, what constitutes manifest inequality, which is opposed to justice. To make this obvious, we must know that there are certain goods which are consumed in their own use, such as wine which we consume by using it as a drink and wheat which we consume by using it as food. For such goods, the use of the thing must therefore not be counted apart from the thing itself, because to whomever is granted the use, it is the thing

itself which is thereby granted. And that is why, for such goods, ownership (dominium) is transferred by the loan. If someone wanted to sell wine on the one hand and the use of wine on the other, he would either be selling the same thing twice or something that does not exist. [...] But money, according to Aristotle, Ethics V and Politics I, was mainly invented in order to allow exchanges. Thus, the principal and proper use of money is its consumption or dissipation, when it is spent in exchanges. For this reason, it is illicit in itself to receive a price for the use of money, which is called usury.

- Saint Thomas Aquinas

Lending money has no value and is greedy. He is not familiar with professions such as agriculture and commerce; like a beast, usury inhabits a place and delights in feasts. Money lending wants everything to be wild and generates everything that

has been left fallow... The house of usury is a threshing floor on which the fortunes of the oppressed are winnowed and where it considers that everything belongs to it. She prays for afflictions and misfortunes to destroy such people...[Usury] is opposed to gold hidden in a person's house because it remains idle and unprofitable. Usury imitates farmers who immediately plant crops; he takes and gives money without gain while transferring it from one hand to another.

- Saint Gregory of Nyssa

What really contradicts communism is not capitalism, but small property such as exists for a small farmer or a small trader.

- GK Chesterton

*Jean-David Proulx-Belhumour
July 1, 2024, Quebec*

PREFACE

Some people ask where the temporary stagnation of trade comes from, others, believing themselves to be informed, assure that it is due to the political circumstances through which we have been obliged to pass.

Some other people ask if it is not the excessively high taxes that cause this inconvenience, others reply that it is due to their indispensability.

If I prove that circumstances have not had as much influence on trade as people think;

If I prove that the impositions, which appear strong at first glance, do not give the same results as before;

If I prove that it is usury which has dried up the sources from which public prosperity flowed: I will have given the solution to a problem which until now has seemed insoluble.

Usury (and I have no doubt of it) is the only cause which has slowed down trade. We know what disorders and confusion it caused in ancient Rome; in truth the unfortunate

consequences it had were more the work of the troublemakers (who were always ready to take advantage of the slightest pretext to cause havoc) than his own; but it is no less true that if this pretext had not existed, the evil would not have presented itself.

It is quite obvious that today we no longer have to fear such an inconvenience, because experience has proven to us a hundred and a hundred times that the gullible have always been its victims, and that those who had abused them were the only ones who weren't. However, it will always remain to be said that we must consider ourselves reprehensible to leave a pretext for machinations; If there were only one imbecile (because there cannot be others) who had to repent of it, it would still be far too many.

Some people undoubtedly blame me for having sprinkled into a work which by its nature must present a lot of seriousness, some jokes, both good (if there are any) and bad; I hope that I will be forgiven this little license, in favor of the motive which made me take it.

It seemed to me quite often that the rod of ridicule struck as strongly as the sword of the law, especially when the one at whom the blows of justice were directed could with some ease deflect them. Ridicule, in such circumstances, is therefore not something to be despised: so I used it.

Men as profound as they are honest and virtuous, jealous of giving as great freedom to commerce as its nature seems to require, have provoked by their writings and their speeches unlimited freedom in favor of usury, imagining that competition would bring about fair boundaries. Experience has proven to them and proves to them that a beautiful theory is not always in agreement with practice; If they doubted this truth, they would only have to cast their eyes on the towns and the countryside, they would find unequivocal proof.

However, as the private man, such as I am, shut up in his study, sees little further than the limits set by his library, and as, on the contrary, the statesman, elevated above all others , illuminated by torches which can shed some

light on the largest as well as the smallest parts of the administration, being able to see, in the immense space that his eye travels over, things which seem veiled to everyone else, I will not have the temerity to believe that the principles that I present are exact: also in this pamphlet I had no other desire than to indicate a practice which seemed to me to have caused a deep wound, leaving it to those who are more educated than me, to plumb the depth of the evil that I thought I saw, and to propose the remedies that they consider suitable. Consequently, if, against my expectations, I proclaim some errors, I think I am entitled to some indulgence, because my intentions are pure. Moreover, whatever judgment one may pass on this work, the great genius who holds in his hands the reins and the destiny of the Empire, always in action, sacrificing his rest to the desire he has to make its people happy, when favorable circumstances present themselves, will undoubtedly take a course in this regard. Accustomed not to err, whoever he judges appropriate to take, he will be for France an omen of happiness and felicity,

and with confidence we must hope that the results will be happy, even if he would leave things as they are, because it only belongs to such a penetrating genius to foresee that what can be an evil for the present, can be a good for the future. For such an institution which appears vicious in extraordinary circumstances often ceases to appear such in ordinary circumstances, as for example is the export of grain, the principle of which in truth cannot serve as a rule in relation to the unlimitedness of the interest of money, given the differences which exist between one and the other; indeed, something else is the means of acquisition, and something else is the object to be acquired.

HISTORY OF USURY

FIRST CHAPTER

Definition of Usury, and what was its rate among the Egyptians, Jews, Greeks and Romans.

The word usury in general means the profit that one gets from something lent. *Usura fienus, questus ex mutuo.* The word usury in French is usually taken in a bad way, and for an illicit gain that one makes on one's money: but as the Latin word *usura* , or at least the plural *usuræ* , can be taken for a legitimate interest, it would seem that in French as in Latin we could attach the same meaning to it: but it is different among us and in our uses. We call usury the profit that we obtain from something loaned, carried beyond the term assigned by the legislator.

A law of the Egyptians, reported by de Lamare, states:

If a creditor has a document, he can obtain payment from his debtor; but he is forbidden to demand, through excessive usury, double the principal. *L.15.*

We must not believe that it was permitted in Egypt to take twice the principal annually: but it could be taken, and not more after, after a series of years, usury had reached it.

The law of Moses forbade the Jews to lend each other money at usury; she only allowed them to lend them to foreigners, and she even ordered them to do so. Deuteronomy reads: *You shall not give your money on usury to your brother* : Fourfold was the penalty for usury among the Jews, as we see in the Gospel of *St. Luke, cap. 19, verses. 8 and 11.*

About usury among the Jews, Voltaire said, *Questions on the Encyclopedia*, at the word Interest:

The prohibition of taking interest from Jew to Jew must have fallen into disuse, since Our Lord Jesus Christ, preaching in

Jerusalem, expressly said that interest was, in his time, *one hundred percent*. For in the parable of the talents he says, that the servant who had five talents gained five talents in Jerusalem, and he who had two talents gained two, and the third who had only one, who did not did not argue was put in the dungeon, by the master, for not having put his money to work with the money changers. Now, these money changers were Jews; therefore it was from Jew to Jew that usury was exercised in Jerusalem; therefore this parable, taken from the customs of the time, clearly indicates that usury was one hundred percent. Read S. Mathieu, chap. 25; he knew his stuff: he had been a customs clerk in Galilee.

It is easy to fight Voltaire with his own weapons: it is more than doubtful that the money changers he mentions were Jews; but supposing that they were such, these money changers, according to the law of Deuteronomy,

did not lend usury to other Jews, but only to foreigners, whom they injured as much as they could; in this case, these same money changers could only be considered as agents of the Jews, to whom they handed over a large part of the profit they made. We know that the *Koran* , modeled largely on the law of Moses, has a provision similar to that of Deuteronomy.

Demosthenes, Xenophon, Aristophanes, Theophrastus, Plautus and Aristotle, declared against usury and usurers. The Greeks in calculating usury, says Paucton, page 452, followed two methods, one relating to the space of a year, the other to that of a month, taking a third of the principal per year , 33 drachmas one third percent, and one drachma and seven eighteenths per month. This interest will seem exorbitant, and indeed is; but it seems that it was only practiced in this way in large-scale contracts; I find proof of this in the oration of Demosthenes against..., in the literal formula of the contract; this interest is increased to 225 per thousand, and then to 300 per thousand, which, in the latter case, brings it to 30 per 100. Now,

as in the wholesale contract, the loss of capital falls on the lender and not on the borrower, this kind of usury was and would still be, in various circumstances, legitimate.

With regard to usury among the Romans, here is how Paucton speaks about it, page 442:

Going back to the most ancient times, we do not see that the laws ordinarily permitted usury greater than the *centésime*? that is to say *one percent per month* , or *twelve per year*. For, although according to Demosthenes, the divorced woman was authorized, by the law of Solon, to withdraw one *hundred and a half of her dowry* if the husband delayed *in returning it to her*, this particular case must only be regarded as *a sentence* which proves that this type of usury was not ordinary. It is to this *centesime* that the Romans reduced all their calculations of this kind: they regarded it as *ace* or a whole, and thus subjected it to all the divisions received from the *ace* . Was the

usury greater? The expression which designated it always referred to the *centésime* ; we therefore said the *sesqui-centesime* , or the usury per *month* of *one and a half percent* , or of *eighteen per year*; the *double centésime*, or that of *two percent per month*, which makes *twenty-four per year*; as well as others, higher or lower.

For not having properly understood the principle on which the Roman calculation was based in this regard, I do not know how many authors have confused *onciere usury* with *centésime* . Mr. de Montesquieu clearly saw that since the time when Roman laws put a check on the greed of creditors, *money usury* could not mean *one percent per month*, because otherwise the emperors who permitted usury *quarte, tiers, semisse*, would have fixed it at *three, four and six percent per month*, which would undoubtedly have been absurd, as he says; because the laws

made to repress usury would have been more cruel than the usurers. But he convinced himself that the *oncier usury* was one percent per month, and that it did not designate one percent per year until a long time later...

We generally see that *usuræ unciariæ* declares an interest of *one ounce* ; that *usuroæ semisses* indicates usury of *six ounces* ; that *usuroæ deunces* means an usury of *eleven ounces* ; but we do not yet see clearly in this numerical system. Indeed, paying eleven ounces of interest on an *ace* , or the eleven parts of a whole, either per month or per year, is not admissible. *Usuræ centesiæ* seems to announce an interest of one percent: but is it per year? is it per month? Per year, one percent would be little; per month, one percent, that would be twelve percent per year.

Here the author thinks that the *ace* must be considered as a unit, a *hundredth* part of a

whole, which the Romans divided into twelve ounces, so, he says, that *centesimæ usuræ* meaning or twelve twelfths for this, *deunces usuræ* would mean eleven twelfths percent, *semisses usuræ*, six twelfths percent, *unciarioræ usuræ*, one twelfth percent, *usuræ semunciarioræ*, one twenty-fourth percent, all for the space of one month. This system, adds the author, seems quite plausible; he continues by saying:

But is this the true theory of usury among the Romans? and if so, is it certain that it was due for the month? Columella, lib. 3, ch. 3, by the calculation he makes, will teach us this. This writer dealing with the cultivation of the vine, after having added together the prices of a winegrower slave, seven jugeres of earth, layers necessary for the planting of this land, stakes and osiers, raises this sum to 29,000 sesterces, from which he draws the *usurarum seedlings* which he estimates at 3480 *sesterces* for two years, therefore taking half of 3480, we will have 1740 *sesterces* for the

usurarum seedlings of one year on a capital of 29,000 *sesterces* making this proportion:

29,000 *sesterces* per year: 1740 *sesterces* of interest:: 100 *sesterces* : 6.

Therefore *usuræ semisses* expresses an interest at six percent per year, and six twelfths or 6 ounces of the *ace centesime* per month. This is the development of the numerical system among the Romans.

M. Dupuy proves from the letters of Cicero to Atticus, lib. 5, epist. 21, et lib. 6 epist, 1, 2, 8, that *anatocism* , that is to say the interest of interest, was only taken every year; this *anatocism* was reprobated with note of infamy by a law of Diocletian and Maximian, in 284; but we soon sought to evade this law by a subtlety: the creditor made a new treaty with the debtor by which the uncollected usury was incorporated into the principal, as if it had been a new loan, and henceforth began to produce.

Justinian absolutely forbade bringing usury, whether past or future, into the principal, and ruled that the old loan would be the only one that would bear interest.

In addition to pecuniary usury, there was in Rome the usury of fruits: this having been reduced, by Constantine the Great (*Code Just.*, *lib. 2, tit. 3, lex 1*), to half of the loan, was called *hemiole*, a word which means *one and a half*, as taught by Suidas and Harpocrates, and also *Aulu-Gelle l. 1 C. 14*; so that through this usury, for a *modius of corn lent, one and a half were returned at the end of the year*, Paucton.

But this *hemiola* was rightly defended (by the councils of Nicaea and Laodicea) to ecclesiastics, under penalty of being cut off from the clergy.

S. Chrysostom, by the complaints he makes, clearly proves that in his time usury was twelve percent, and that from the harvests the rich took, for the loan they had made, half on top of that. the main. He says :

The rich are not content to demand from the farmers a hundredth part of the whole, they want half.

Justinian subsequently fixed the usury of fruit at one *eighth of a modius per year*. This interest was a little stronger than the *centésime*, since, on this foot, *a hundred modius* produced twelve and a half.

The early Romans generally condemned usury, whatever its nature; which made Cato the elder say that among the first Romans usury was more abomination and punished more severely than theft. Cato, *de re rust. initio*. Paucton.

Cato the Elder, called Cicero, was asked, *c. 25*, what were the best goods: good flocks, he then said? mediocre herds; after these herds? herds below mediocre; after these herds? arable land; and to lend your money at usury, what do you say? and to kill a man, what do you say about that yourself, replied the wise Roman. This anecdote confirms what Paucton says.

Ambition and greed having followed the success of Roman arms, usury was carried to

revolting excesses, which more than once led to other no less revolting excesses, which nearly overthrew the republic by igniting civil wars. Tacitus, *lib. 6, 16 annal*, testifies that the laws of the twelve tables, to repress the license of usurers, only permitted *unciary usury*, which was itself restricted to *half an ounce*, and followed by the annihilation of all usury.

The emperor Basil generally forbade all kinds of usury, but Leo, his son, realizing the damage that commerce suffered from it, seeing that everyone was holding on to their money, suppressed this edict, because, as he said, it was more pernicious than useful, *Leo, constituent. 83*; and he put the old regulations back into force.

unciary usury , it forbade the demand of a more considerable one, on pain of restoring fourfold: *God. on law 21, si quis unciario.*

Here, I cannot help but make a reflection: Good practices being based on the nature of things, are followed at all times, in all places, by all or almost all people. The fat contract, which we use today, is exactly the same as that of

which Demosthenes speaks and of which we see the formula in his Orations; the only difference we find is that among us the contract is made before a notary, or in duplicate between the parties, and that among the Greeks it was handed over to a third party. We have seen that the law of Moses punished usury of the quadruple; we see that the law of the twelve tables punishes her in the same way. Moreover, among all peoples, usury has been and still is abhorred.

The decemvirs having regulated usury in Rome, their laws having fallen into oblivion, Justinian, in his constitution brought in the twenty-sixth year of his empire, seeing that the usurers had no other rule than their greed, allowed, for people of distinction to take usury *triente*, that is to say four percent per year;

At the bank, the usury *besse*, that is to say eight percent per year;

In the navy, for wholesale contracts, the usury *as*, or *centésime*, that is to say twelve percent;

For ordinary loans, the usury *is fixed* , that is to say six percent. *L. 26, of usuris.*

In one of his news, the same emperor, seeking to favor agriculture, ordered that only *quincunse usury* , that is to say five percent, could be demanded from the plowman.

No part of the economic order was undoubtedly better regulated at this time than usury; everything was taken into account in the order of things, and followed the march of nature itself.

In fact, the law gave four percent to the capitalist. It was not a benefit that she granted him, but only a simple compensation for what his money could have produced, in the common year, if he had invested it in land.

The banker, according to the law, can take eight percent, because it is necessary to have people who are always ready to lend, in order to satisfy urgent needs, and since this banker paid the capitalist four percent , and he had offices to run and troubles to take, the remaining four percent was his. Nothing could undoubtedly be better founded on reason. When the emperor

limited the loan to the large one, as at that time there was little knowledge of commerce, he made a mistake.

Indeed, the big contract being one in which the donor of money agrees to lose his capital and interest if the thing on which he is mortgaged perishes, and where he takes an interest proportional to the presumed danger he runs . It is not possible to set a limit to this type of interest, because the basis is very mobile, given that the ship, the captain, the composition of the crew, the seas he has to travel, the season in which the journey must be made, and a thousand other things are all obstacles which prevent certain limits from being set for this type of transaction: this law was therefore bad.

The usury was increased to six percent for ordinary loans, that is to say for loans made and taken by people of little means, and undoubtedly for small sums.

The plowman only paid six percent, because he only got about that amount from his field. He paid in money the equivalent that he naturally should have paid in kind. So it was to

favor agriculture, which deserves the greatest favor. We have seen that, according to Columella, land yielded six percent.

Have the Roman people, whose wisdom and virtue are so praised, always been as wise and as virtuous as we are told? I do not think so. I open *Livy*, *lib. 21, syntagma universi, l. 19, c. 5*, and I read there

By a law given by J. Claudius, tribune of the people, in the year 364 of Rome, senators were forbidden to have at sea a ship which contained more than three hundred measures, that is to say beyond their provision. This regulation, which seems to recognize the fraud that these heads of the republic allowed themselves, had the fate of many others: that of being received with joy, and of being forgotten in the same way.

A much more pleasant thing: the senate which seemed to want to strike down usury and usurers, was only a group of usurers who

desolated the people with their extortions; and as the people always follow the maxims of their leaders, Rome was composed only of individuals who, lance in hand, always had their arms raised in the air to defend it, while under the cloak they had, the other arm armed with a dagger to slit his throat. When I insinuate that the principals of Rome exercised the detestable profession of usurer, I am not saying anything too much. I will prove it.

It will undoubtedly be useless to speak of Cato's greed, because everyone knows it; let's talk a little about that of the antagonist of Verres, that is to say that of Cicero, one of the proudest hypocrites of antiquity and his hypocrisy is extraordinarily revealed by the following anecdotes.

Brutus, the virtuous Brutus, had been raised by his uncle, the no less virtuous Cato, in the Stoic philosophy, which he had embraced with incredible ardor; his reputation as a virtuous man seemed in no way equivocal in the eyes of his fellow citizens: he nevertheless appears that this virtue, supposedly rigid, was

not as rigid as they would have us believe, since Cicero complained bitterly about him, because he had wanted to encourage him to use the most odious extortions against the people of his government, to make him pay the considerable sums they owed him; upon the complaints that Brutus made to him about his refusal to satisfy his desires, he replied in these terms to Atticus.

If it is only at this price that I can continue the friendship of Brutus, I am very glad that he knows that he can look for another friend than me.

According to this moral response, who will believe that the Roman orator was not ashamed of using the ministry of his friends to lend, against the law, money at high interest? And what shall we say of the illustrious Seneca, this wise tutor of the cruel Nero, who, despite having written his beautiful book entitled *Treatise on the Contempt of Riches*, exhausted all of Brittany by his enormous usury? Finally, what shall we say of Caesar, Pompey and Brutus,

whom Montesquieu represents to us as very great usurers. It will be necessary to say what this author himself says: Usury was naturalized in Rome; and then conclude with former author Savyn:

Commonly the subject province
Forms his morals in the mold of his Prince.

And all that remains to be done is this. When complaints of usury were brought before the usurious magistrates of Rome, being judges and parties, their colleagues should not be poorly served. This reflection explains the reason why, in Rome, the laws passed against usury were so often evaded. In France, in the past, these laws were undoubtedly evaded like all the others; but by whom were they evaded? By men who had renounced all kinds of feeling, who, being capable of doing anything, defying the laws and public opinion, clandestinely satisfied their greed. Nevertheless, the afflictive penalties inflicted from time to time on such

vexers reduced their number so much that those who remained afflicted society very little.

CHAPTER II

Of Usure in the Middle Ages, and subsequent periods up to the present day.

By *code. visig. lib. 5, tit. 5, leg. 8 and 9*, usury was authorized; the creditor was permitted to demand from the debtor one eighth of the principal, that is to say twelve and a half percent if it was in money, and one third, that is to say thirty-three one third percent for all kinds of commodities, *year 712, hist. Lang. t. i, page 382*. But we must be careful that at that time the weapons were shining on all sides, the torch of war setting fire to everything that was encountered, the uncertainty in which we found ourselves of catching up with its advances, a portrait at this high rate of usury, which naturally had to be fixed at the Gallic rate; but Theodoric, king of Italy in 493 (We know that this king, to win the love of the Italians, imitated them in their morals as much as possible), ordered that any creditor who took more than one for cent per month loses his capital; and

Alaric, king of Toulouse in 484, following in the footsteps of his predecessor Evaric, king in 466, allowed twelve and a half percent of usury to be taken, provided that the borrower had made some profit with the money borrowed.

Charlemagne also made a *capitulary* against usury.

In the court gazette, t. 3, page 189, we find the following:

Judgment of the Court of Parliament, of January 10, 1779, which condemns Jacques Boulleau, Claude Vidy, Nicolas Naudin, and Jeanne Lepage, wife of Jacques Fition, to *imprisonment* and *banishment for nine years for usury*.

Likewise condemns Francois-Jean Bédanne, Marie-Catherine Faucamberge, wife of Mr. Godefroy; Jean Bouin, Françoise Anseau, wife of François Foenin, to make honorable restitution, to *banishment for nine years also for usury*.

Orders that the ordinances of the kingdom, declarations of the king, judgments and regulations of the court, notably *the Capitulary* of Charlemagne of the year 789, the ordinance of Philip III, of 1274, the ordinances of Philip IV, of January 30, 1311 and of December 8, 1312, the ordinance of Louis XII, of June 1510, art. 64, 65 and 66, the Ordinance of Orléans, of January 1560, art. 142, the judgment of the court, of July 26, 1565, the ordinance of Charles IX, of March 1567, the ordinance of Blois, of May 1569, article 202 and 362, the judgments of the court, of March 26, 1624, June 2, 1699, January 10, 1736, July 28, 1752 and August 27, 1764, will be executed according to their form and content; consequently, makes very express inhibitions and prohibitions to all persons of whatever state and condition they may be, from exercising any species of usury prohibited... by the orders, judgments and regulations of the court, in any manner

whatsoever. whatever and can be, and even under feigned and contrived appearances of commercial acts, directly or indirectly, by themselves or through intermediaries.

Likewise forbid all persons from serving as pimps, mediators or intermediaries of illicit and prohibited loans and negotiations, all under penalty of nullity, monetary fines, banishment, confiscation of body and property, honorable fines, and other corporal punishments, according to the requirements of the cases and the seriousness of the offenses, as provided by the above orders, rulings and regulations.

The ordinance of Philip IV, of January 1311, cited above, stated in its preamble:

Our desires of great affection with all our hearts, thus as we are bound, and our predecessors from whom we are descended, have always made, the public

reformation of our kingdom, and profit of our subgiez, procure and avoid their damage, let us see clearly and let us see that the griès (grièves) usures, which run (run) in these times through all the parts of our kingdom devour (devour) and devastate (ruin) the goods and the sustance (substance) of our subgiez, commonly as well as without a number of people came in great poverty and many would come (and would come) if remedy was not put in place, etc.

In Normandy, two individuals reduced several rich farmers to alms through their usury. This is what a person under whose eyes things happened taught me.

In *Brodeau sur Louet, tom. 1. page 34*, we find the following assertions, on usury and tear disguised by the sales contract.

The law defending the interest of the penny, such interest cannot be covered by any contract or agreement; It does not

matter to the debtor by what kind of contract he is made to pay ten percent; nor is the creditor excusable by what means directly or indirectly he takes ten percent, he can only cover his defect by means of a purchase contract; but as the purchase contract was never introduced to cover or compensate for usury and tear, it is also not reasonable for the creditor to cover himself with this cloak to authorize this defect, *which has never been authorized by law*, under whatever pretext, authority or color; otherwise it would be permitted for creditors, under a false fact and pretext of word, to *trick the debtors*, cover up and authorize their vice; it would be to adopt the contract of purchase and sale, which is in good faith, to cover and authorize their vice; this would indirectly contravene the prohibition of the law, it would in fact compensate for usury, and, by the *mere difference of names*, convert purchase into usury, good faith into vice.

Judgment, dated July 31, 1596, which breaks such a contract. Another decision of the Parliament of Provence, of March 14, 1647, by which it was judged that usury is imprescriptible, and that it cannot be *covered by transaction or word* or consent of the parties. *Bonif. t. 1, part, z, book. 8, tit. 2, ch. 8.*

The jurisprudence having been uniform in this regard, the result was an adage in the palace, which says: “Transaction on usury is not valid.”

In a judgment, reported in *t. 6* of the journal of the hearings, it was judged, on July 22, 1713, that usurious interest, paid voluntarily over forty years, had to be returned and charged against the principal.

CHAPTER III

On the Usury which is practiced among the Chinese, and the reasons which motivate it.

It is quite common to see that, when we want to support a true or false system, to argue based on what is practiced elsewhere, if we consulted customs, politics, localities, relationships, the neighborhood of peoples, we would obviously see that what can be suitable and contribute to the prosperity of a nation, cannot sometimes be suitable and contribute to the prosperity of another nation: China gives us proof of this truth in relation to usury.

In Barow's Journey, volume 3 page 62, we find this remarkable paragraph.

In China, people rarely lend money at interest, except in the big cities, where it is practiced among merchants. The legal interest is twelve percent, but it is commonly raised to eighteen, and sometimes up to twenty-six. To avoid the

penalty to which the law condemns the usurer, those who lend require a particular note for the amount of interest above twelve percent.

In China, says Lord Macartenay, usury is, like gambling elsewhere, a degrading way of earning money; but among us (in England), by a sort of agreement between necessity and avarice, between poverty and opulence, we consider it dishonorable for someone who has been the victim of a Jew or a trickster, to sue him.

It appears that Lord Macartenay's Voyage was truncated in the translation that was made of it; there is none of that: here is what I find there, volume 4, page 108, and this in relation to pawnbroking.

The law grants (in China) lenders a very high interest. The use of these loans surely announces great improvidence on the part

of the multitude, or great uncertainty of success in enterprises; but the ease of cultivation, and the abundance of harvests, when no calamity occurs, often put the peasants, poor as they are, in a position to bear the burden of loans.

On this paragraph, Mr. Castera, translator of this Journey, made an annotation as follows:

Houses where pawnbroking is carried out are called *tan-pou in China* ; the legal interest on silver (in bullion and coined without twelve) amounts to thirty percent per year; and according to the scholar *Tsien-Tchi*, who has written extensively on political economy, this high interest is useful to commerce.

Which of the two will we believe, is it Lord Macartenay who raises the legal interest to twelve percent, or is it the Chinese scholar who raises it to thirty percent? In any case, where can this exorbitant rate in China come from? All the

more so since, according to the same Lord Macartenay, *t. 4, p. 226*, the debtor who does not satisfy his commitment is reduced to publicly usurying a yoke on his neck; that in some circumstances he suffered corporal punishment, and exile to Tartary; let those of the emperor be strangled when they are by fraud; that, if it is due to misfortune, they sell their property, their wives and their children, then exile them to Tartary?

I believe I have found the reason for this excessive usury; first in the rigor of the law, and then in the monetary system, then in the economic system indeed.

In China, according to Macartenay, large payments are made with raw precious metals, or in Spanish piastres, which are considered in certain respects as raw material; in this respect the representative sign, commonly called money, is a commodity.

Independently of this raw currency, there are really two species of coins, that called *tchen*, which is silver alloyed with copper, and that called *lie*, which is copper; upon the death of

the sovereign, these representative signs were criticized.

Strictly speaking, commerce is carried out in China by exchange, gold and silver being commodities, and always playing the leading role in transactions, being moreover subject, in relation to this reason, to becoming rare or abundant, it seems natural to believe that the high rate of usury comes from:

1. From the fact that, from the moment an individual decides to borrow, we must assume that he is in very great distress and very few means of exchange, since he is exposed, even if a fortuitous event or force majeure reduced to poverty, to suffer one of the harshest punishments that could be inflicted on him, after having paid usury which exceeded the profits he could hope for;
2. Because on the death of the sovereign, the currency ceasing to be such, the new one can have a lesser

or a greater value than the previous one: this uncertainty must necessarily influence the usury, and make it more considerable;

3. Since money is a commodity, the presumption of strong or weak demand produces, through uncertainty, the same effect.

Mr. Legou-de-Flaix (born in India, where he was an engineer; he seemed to me to be a distinguished scholar. He has a manuscript which is infinitely interesting for everything that may relate to India. I has no doubt that commerce would have no obligation to him if he had it printed.) in a handwritten memoir of which he is the author, and which he kindly sent me to support what I said over time on the origin bills of exchange, proved to me that in almost all of Asia, if not all, money was a commodity, and that it rose from one hour to the next.

This established order of things in China seems to me to be based on the policy of the government, which seems to make every effort

to prohibit precious metals from transactions, so that by encouraging exchanges, the natives will put more effort into obtaining them. the means. Moreover, although usury is enormous in China, among all the writers who have written about this vast and flourishing empire, I have not found that there was a single usurer who had brought the usury to 40, 50 , 76, and 100 percent, as some have done in France.

CHAPTER IV

*Which ones actually cause usury and tear?
Portraits of some loan sharks, and anecdotes on
their subject.*

Strictly speaking, we call a usurer someone who takes a higher interest than that determined by law. However, as commerce needs to be in unison with those who set the tone for it, under the old regime the merchant who lent at six percent was never considered a usurer; Likewise, in the present circumstances, a merchant who lends at two percent per month is not considered a usurer if he himself borrows at this rate; nor will I consider as a usurer the wretch who, while doing his job, lends a few handfuls of crowns to give himself the means he lacks to help support his unfortunate family. A usurer is only one who, possessing sufficient capital to live economically, and who does not engage in any business, invests his money at a rate higher than that fixed by law. A usurer is

still one who trades in money while allowing himself the same vexation.

A wise man rightly said: *the face is the mirror of the soul.* Stare at a usurer for a moment, examine his movements carefully, his crime will be revealed to you by his oblique glance, his embarrassed appearance and his mysterious air; seeing him so disconcerted, it seems that he reads in your eyes that you guess what he is; an object of universal contempt, he believes he is taking revenge by responding dishonestly every time you do him the honor of speaking to him; and so by trying to impose on you, he hopes that you will show him the respect that he knows well he does not deserve.

Having gone one day to visit a man of this type, as soon as his servant announced me, he rose hastily from his armchair, took Rousseau's *Emile* , opened it at random, and pretended to read; having introduced myself to him and having greeted him without too much formality, he answered me nothing, so that by his affected silence I would judge that he was immersed in serious reflections.

As he is very narrow-minded, and as a result he went about it in a very clumsy way to mislead me, I was tempted to ask him: *What do you spell there?* At the end he came out of his meditation, and said to me: I beg your pardon, I am reading *Emile*. I replied, laughing: It's not me you're offending, it's Jean-Jacques; Besides, I said to him, you are reading *a good book there*. As he thought I was telling him that he was reading a *beautiful* book: Ho! said he, it is not surprising, I paid him accordingly; its binding alone costs me 15 francs in cash. I answered him: It is very expensive; If it had cost you that much in a month's term, it would be very cheap.

While I was having this interesting dialogue with my literary usurer, an unfortunate craftsman entered, whose face, full of candor, did not indicate usury. As he greeted her opulence with probably more fear than respect, she asked him with the rustic tone that characterizes her: What do you want? When the craftsman replied: Sir, I come for... I have no need of you, replied the Harpagon, go away. The sudden expedition he had just made seemed to

make him quite pleased with himself; and looking at me, he seemed to say to me: See how I am, you must not come and bother me: because I do not joke, especially when I presume that one is hungry and that one has need me; if Voltaire entered my apartment in the same state, without regard for his Henriade and everything that is most esteemed about him, I would treat him in the same way.

In truth, we are as outraged by the dishonesty and pretension of the usurers as by their vexations. Have we ever taken effrontery as far as this type of men take it?

Ask the moneylender what his profession is; he will answer you without hesitation: I am a banker, I do banking; but how is he a banker and does he do his profession?

He is a banker in the same way that pirates are soldiers.

He makes banks like highway robbers make war.

There is nevertheless this difference between the thief and the usurer: the first begins by killing you before taking what you have, and

the other begins by taking away what you own before making you die of misery.

Walking one day at the Palais-Royal with a friend, I saw a certain usurer who had just gotten out of the carriage in which he formerly rode from behind, before his master's fortune had passed into his hands. He had his hat askew, according to the custom of his colleagues, and was holding under his arm a sort of Madame Angot who is said to be his wife. As the trivial air and rotundity of this new Dulcinea cluttered up half of the aisle, and as she made a terrible pout while trying to make some simpering gestures, this singularity attracting the looks of everyone, the friend who was with me said to me: Do you see this champion who, with his capuchin countenance who breathes his last, wants to affect the military air? you perhaps believe that he threatens heaven and earth: if you believe that you are wrong, it is your pallet, it is your shirt that he threatens, even if you had a hundred thousand; if you have anything to do with him, he will take them all away from you,

down to the last one, even the one you have on your body.

Internally satisfied with what my friend told me about a man I knew very well, I set out to get him to talk about the boor as much as possible; then I asked him: What is the *minimum* and *maximum* of the merchandise of this merchant of new creation? He answered me: His *minimum* is, when he has great security, twelve percent; as for the *maximum*, he does not know any. Ha, ha, I said to him, what would Shakespeare have said to this usurer if he had asked him to sing his safe, as did one of his colleagues, named Jean Dacombe, who, very modestly, took only *ten percent per year*.

This name of *Jean Dacombe* and the story of ten percent, having piqued the curiosity of my interlocutor, he asked me to tell him about it; which I did in these terms: In England, a usurer named *Jean Dacombe*, and nicknamed *Ten Percent*, in relation to the constant price he put on what he called his merchandise, having asked the English poet what epitaph he would give him what he would do if he were to die, the

poet, indignant that such a man could think that he was capable of prostituting his pen to sing of his odious fortune, answered him thus without hesitation:

Cy-git a powerful financier,
Which we call Ten Percent;
I would bet a hundred to ten
That he is not in paradise.
When Beelzebub arrived
To take over this grave
They said to him: what are you taking
there?
Hey it's our friend Jean Dacombe
(*Voltaire, Questions sur l'Encyclopédie, volume I, page 127, 12vo.*)

I had no sooner finished my story than my friend, having seen a certain individual with a bad appearance like that of which we have already spoken, said to me, Do you know this being? No, I told him. You are therefore the only one in Paris, he replied, who does not know him; he is called by the public Jean de Nivelle.

He has a pleasant name there; and why was it called so? - He was called thus by allusion to a certain usurer who was, in his profession, the most skillful rascal who had existed until then; I'm going to tell you her story, she's really curious.

One day, one of his unfortunate debtors, after having sought to soften his fate, his complaints and his tears having been in vain, believing to obtain through the voice of feeling what he refused to that of humanity, he sought to prove to him that his conduct being most revolting, he brought public animosity on his head. The usurer, on whom this language had no more effect than on the previous one, replied: Hey! What is so revolting about this? I only do with my money what others do with everything else, that is to say, if the merchant sells the objects of his trade, I sell the object of mine: now, as it is allowed to sell as dearly as one wants provided that one uses good weight and measure, I do not see that in satisfying this duty, to which (and I call God to witness) I am not

careful to fail, I do not see, I say, that I am more guilty than anyone else.

But, the unfortunate robbed man replied, *money is neither nor can be a commodity* ; on the contrary, it is and can only be the *price* , the *measure of the commodity* . - You are not there, sir; this error is currently as far from us, thanks to Jérémie-Bentam, and other profound philosophers and economists, as the moon is from the sun. I will explain to you this sublime system, which is of a completely different caliber from those of Newton and Copernicus. I'm getting into this.

Roman philosophers who were undoubtedly well worth this imbecile Greek philosopher, author of the Peripatetic sect, in a few words settled the question; they said: *If money buys the commodity, the commodity buys the money.*

Have we ever presented a principle more luminous, more laconic, more... than this one? it is undoubtedly so decisive, it resolves so well the great and interminable question agitated for so long, that probably you will not be rash

enough to try to fight it. Arguing therefore from this beneficent principle, we must say that *money being the price of the commodity, the commodity is the price of money.*

The debtor, who saw clearly that the so-called principle had no other aim than to rob him of what remained of his nest egg, believed to destroy it by observing with all the prudence that one must have from whom either *life* or *wallet* is asked, if your principle is correct, Mr. Pierre (that was the name of the usurer) we must remove from our codes the sales contract, and leave only the exchange contract, which will still have to be tortured the rules.

Here, M. Pierre, having been taken, and not knowing quite how to get rid of himself, hastened to leave Rome and its philosophers, and traveled to Greece; there, believing himself to be stronger, he said: Besides, all this is a matter of convention. A wise and very wise Greek said: *There are two kinds of rules, one which levels the stone, and the other which the stone levels; the first is iron and the other lead.*

By this ingenious figure, the admirable philosopher wanted to say that there are cases where the principle must be respected, and that there are others where it must be violated in whole or in part. So, arguing from the philosopher's assertion, I say that there are cases where we must consider money as the price, the measure of things; and that there are other cases where we must consider things like the price, the measure of money.

The trembling debtor replied, I believe, sir, that I can take you by your own reasoning, by arguing as you have done: you admit two things of different nature, which are reciprocally measures of one another; if this is so, it does not follow from this that six francs are worth nine, since nine francs and six francs are of the same nature: which is incompatible following your system.

Error, sir, error, replied the usurer emphatically; in law, fictions are admitted; in the ratio of nine to six, there is a fictitious equation which presents a certainty through another fiction, which makes the members of the

ratio measure one with respect to the other, from which it results that the one is the price and the other is the commodity, and vice versa.

Well, so be it, said the impatient debtor; but it will not follow from this that I have to give, for example, one hundred and fifty cabbages to have a hundred, it will undoubtedly be enough for me to return the hundred cabbages, plus an indemnity proportionate to what the cabbage lands bring in; because equality, according to the law on which you want to base yourself, requires it in all contracts; because if it is not always found in contracts of exchange and sale, it is because the things which are the object of them not being certain like the cabbages of which I have just spoken, their price is abandoned to the opinion of the contracting parties: moreover, Mr. Pierre, even if your Greek and Roman philosophers were all there, even if all of antiquity were with them, they would never be able to persuade me that the measure could be the thing measured ; because I believe it is absolutely absurd to claim that if *the*

yardstick measures the cloth, the cloth measures the yardstick.

The usurer, seeing all his sophisms retorted, finding himself forced to his limits, replied to him, stammering: In truth, my dear sir, you are rambling; and how do you lose sight of the fact that this is all a matter of convention? Ha! This is a matter of convention, replied the debtor, frankly speaking, I had lost sight of this great consideration; here Mr. Pierre, here is a marble table, put your hand on it. - There it is. - What feeling does it give you? And parbleu, replied M. Pierre, she makes me experience what she would make anyone else experience; it is so cold that it freezes me. Ha! ha! replied the cunning debtor, you are wandering, my dear sir; It's not the marble table that's cold, it's you that's hot.

The usurer having found himself more embarrassed than ever, after thinking for a few moments, broke the silence and said: This is true; but, to be clear, we thought it appropriate to say that marble is cold because of the heat which is natural to us; Besides, sir, this is still a

matter of convention; and as everyone makes these conventions as they see fit, it is generally agreed that precious metals should be calculated grain by grain, scruple by scruple; that the time for which they are delivered must be calculated in the same ratio, that is to say by the hour and by the minute; being of no use to me to know whether the marble should be considered hot or cold, and being advantageous to me to be paid what you owe me, both in capital, interest, and interest on interest, etc. etc., until the day, hour and minute, which we have determined; I declare to you that if you do not satisfy sooner rather than later the bill of exchange that you signed for me quite freely and voluntarily, I will show you what I am doing. It is undoubtedly enough that I have lost, through the useless chatter that we have just had, at least a quarter percent of the discount, without further aggravating my position by requiring some discount from me; because I realize that this is what you are getting at. The usurer, having seen one of his faithful agents, did a pirouette on his heel, and was undoubtedly repaired, by a

lucrative discount, the time he had lost in discussing political economy with his debtor.

My interlocutor having been carried away, as if in spite of himself, by the warmth he had put into his story, I could not help but say to him: This story gave me some pleasure, however I cannot tell you that I am not not entirely satisfied. How then? he replied, - Because, while having seen certain principles exposed alongside false principles, I still have to know who this *Jean de Nivelle* was that you promised to introduce to me. Sorry, he said, here I am.

Mr. Pierre, seeing that he was hated by everyone, instead of responding to justify himself, as his successors do: *Money is a commodity*, always replied, *If the rule levels the stone, the stone levels the rule*. Having made one of his brothers, named Jean, a good student, who, says the very curious and true story, was, in usury, the greatest man of his time. John having usurped a very good fortune, to give it the brilliance that it did not naturally have, he extended his name with the monosyllable *of* ;

and, as he also highlighted the golden rule in question, just as Jean Dacombe, of whom the English author speaks, was called *Ten Percent*, Mr. Pierre was named *Pierre de Nivelle*, and his brother, *Jean de Level*. Since then, *Jean de Nivelle* has been called par excellence , the clever usurers rogues, and in particular the one you have just seen.

CHAPTER V

Large examples of the disorders caused by Usury.

Reading history, from the Greeks to us, we see that great crises brought with them a crowd of thieves who infested the highways, fleets of pirates who covered the seas, and hordes of usurers who brought desolation to the cities and countryside. In speaking about these three kinds of bandits, I do not, however, intend to confuse the latter with the preceding ones, because there is a great difference between them; in that the former show some courage by slitting their throats unwillingly, and the latter slit their throats with all possible cowardice; these are therefore much more guilty than those with whom they seem to be assimilated: hence an essential distinction to make.

Sovereigns have always made efforts to extirpate this type of men from the social body; their efforts have often been in vain, because they have not used sufficiently vigorous means,

and because sophists in good faith showed them the thing from a favorable side, without making them see the reverse, which was infinitely more unfavorable.

For example, would Jérémie-Bentam not be very guilty if, in bad faith, he had written his work entitled *Apologie de l'Usure*? But as he is a jurisconsult who rightly enjoys a good reputation, and who not knowing how to distinguish the measure (money) from the thing measured (venal things) fell into errors and sophisms , he would rather deserve the little houses than the blame.

According to what has already been observed, Cicero, who knew perfectly well about usury, said, *offic.* , 1. 3:

Everywhere the greed for gain is masked in various forms, and the word alone is enough for it to color a profit that it would not have made under any other.

The usury and tear and all the tortuosities it employs undoubtedly prove to us that the

Roman orator had not erred when he expressed himself as has just been said. The Chancellor of the Hospital completes the picture in four words, speaking of the usurers, he says:

We only think about winning; the passion for gold removes all other feelings.

To which we can add what Daguesseau says:

The poverty and necessity of one of the contracting parties is not a cause of gain and profit for the other.

Supporters of usurious freedom base their arguments on the more or less risk that the creditor runs in giving up his money. Blakstone, who knows political economy as well as they do, answers them as well as possible, he expresses himself thus: 3, p. 371:

We ordinarily give the name *interest* to the honest profit of money and we designate

dishonest profit under the name of usury; the first is necessary in all *civilized states*, if only to banish the other, *which must never be tolerated* in any *well-regulated society*.

We see that the exorbitance or lowness of the interest on the money lent depends on two circumstances: the inconvenience of depriving oneself of it for the present and the risk of losing it entirely. The law can never assess this disadvantage in relation to individual lenders, so the general interest rate must *be adjusted to the general and ordinary disadvantage*.

“There is no doubt that any State which tolerates usury is marching quickly towards its ruin.” This is how Guichardin talks about the usury that was practiced in his time in Belgium.

Formerly, pecunious gentlemen were willing to use the money they had in their possession..., sending and bringing in goods abundantly and from all sides..., and in this great and abundant traffic, many

works of all quality were put to work and earned: so much so that the towns were filled with all goods, and the cities provided sufficiently with all kinds of merchandise, saw *their income increase*, *as also was that of the princes*. At present, part of the nobility having cash, *enticed and corrupted* with a large and certain profit by means of *usurious deposits*, give their money to interest, or have them given *to usury elsewhere*.

During the system, the Dutch, being good calculators, sent money to France. Thanks to the great interest that existed there, they drew considerable sums of money, which the loss caused to them by the bankruptcies, which they partly caused, did not nearly compensate for.

The Marquis of Pombal, Minister of HM the King of Portugal, writing to the Minister of Foreign Affairs of England, expressed himself as follows:

For fifty years you have drawn from Portugal more than 1500 million, an enormous sum, of which history does not say that any nation has ever enriched any of the like.

This enormous sum extorted by the English government was largely through usury. This is how the author of the trip to Portugal speaks, *t. 2, p.56* (Two octavo volumes, attributed to the Duke of Châtelet, who was never in Portugal)

The difference which exists between England and Portugal, as to the interest on money, was... a source of exhaustion for the latter kingdom: this interest was only two and a half percent in England; it was ten percent in Portugal.

The credit made by twenty English individuals *would have been sufficient* to strip Portugal of its wealth. 50,000,000

borrowed in London, and then negotiated in Lisbon, made a considerable sum every year. Every ten years the capital of the debts was paid with interest, and yet the debts always remained.

Usury, or what is the same thing, usurious interest, therefore removed at least every ten years from Portugal 50,000,000, without counting anatocism. I think that these facts are so decisive that they do not suffer the slightest retort. Moreover, to give the final blow to the picture, and prove that usury not only destroys all kinds of morality, but also, by a natural consequence, overturns the entire established order in society, I am going to borrow the pen of the illustrious chancellor Daguesseau; this great man speaks thus:

One of the principal interests of any empire, and one which has been the object of the attention of the wisest legislators, is that there be no *idle citizens* useless to their country, that fortune and good be the

price of labor... ; it is what supports and perfects agriculture, it is what makes the arts flourish, it is what *nourishes and increases commerce*, natural sources of wealth and true abundance.... When these first principles are completely extinguished in a state, and private interest stifles the nobility of feelings and all love of the public good, there is no one who should not fear that such a state is threatened with its ruin... In circumstances (similar) we will see in France two opposite excesses holding each other, so to speak, by the hand: the excess of poverty in wise and virtuous houses: *the excess of luxury in those of usurers, stockbrokers, bankrupts, our servants and even our lackeys*. Now, the greatest evil that can happen in a state is that these two excesses walk at an equal pace. ... One would say that it was for this time that these words were written which are in the collection of memorable things that happened in France under the reigns of Henry II, Francis II,

Charles IX, Henry III and Henry IV: In It was not long before we saw in France marauds becoming great lords, and the rich becoming *bilisters*.

Could we not say in our turn what the chancellor says: It seems that these words were written for this time?

CHAPTER VI

Usury versus Discount

In 1769, Mr. *Marceau* sold to Mr. *Montmien* for 300,000 pounds. of wood, to be delivered in three or four years; Mr. Montmien subscribed to notes for the value of this sum, payable at different times and over the space of five to six years; in less than a year, Mr. Marceau put more than 200,000 of these notes on the market; he presented it for 62,000 pounds. To Mr. *Tierce*, who, given the length of the deadline, took a 7 percent discount, 6 percent depending on the price, and 1 percent commission.

After a few events, of which it is useless to speak, Mr. Marceau attacked Mr. Thierce as a loan shark. This first was decreed of personal adjournment. The attorney general of Dijon obtained a ruling which annulled the decree. The case was pleaded in Dijon during fifteen hearings. The question was dealt with in two memoirs by Mr. *Regnaud*, prosecutor in the Parliament of Paris. The first of these two

memoirs was followed by seven consultations taken separately from MM. Gervais, Legouvé, Viel, Tronchet, Aubry, d'Outremont, Moussu, and Boucher d'Argis, lawyers in the parliament of Paris.

It is established in these consultations and in the two memoirs that Mr. Thierce was able to take 6 percent without exposing himself to criminal prosecution, and that there was no *usury there*. The meaning of this word was determined; we sought to show that *usury does not consist of extracting profit, even excessive profit from money, but of extracting this profit without running any risk*; that the profits from trade, which sometimes go beyond 100 percent, *are not usurious*; that the discount is only a compensation of value in the discounted effect, because this effect, for the owner who needs money, is supposed to be worth less to him than all that is necessary to convert it in silver. In these memoirs and consultations we gave an account of the ordinances of our kings concerning usury, and we sought to show, or rather we made it clear *clearly, that they did not*

apply to the species. The reasons which were given acquired all the more solidity, as it was proven, by certificates issued by stockbrokers, that the discount rate on the market was 7 per cent, and that moreover Mr. Thierce ran greater risks than one usually runs in short-term effects.

From these different means, we conclude that the criminal proceedings against Mr. Thierce were unjust and vexatious. Judgment of August 13, 1779, which quashed, revoked, and canceled the permissions to inform, as well as the information, decrees, and other procedures exercised against Mr. Thierce. Although the discount is supposed to be only the deduction of the interest included with the capital, and consequently it seems that judiciously we should not require any other deduction on a commercial instrument than the interest which it involves in usage founded on reason, however, is different; several reasons have caused this order of things.

In fact, when we take a note in payment, we only decide to take such an instrument because we cannot obtain cash; which implies a real or relative rarity of the species; hence

comes a large quantity of paper, with respect to the coined money: now, as it follows from this consideration that silver is always or almost always demanded, while paper is always or almost always offered, the price that we attach to money, and the debasement in which the paper is found, mean that the discount very rarely takes its measure from the interest, although this measure is most natural. Another reason, no less decisive, advises this order: a lot of city paper which circulates on the square, being what we call in mercantile language pleasure tickets, and consequently bills which certify at least one species distress, hence another inconvenience which distances the discount from its natural measure; it is useless, I think, to observe that the best houses setting the tone, they should be exempt from the common law, because often such a house which is apparently the first, is in fact the last.

From this development follow these considerations. The interest can be limited without disadvantage, and there would be some limitation of the discount. Interest is the basis of

the discount, not the discount that of the interest. Interest, being a principle, must remain invariable; while the discount, which is the consequence, must vary at the discretion of the contracting parties.

The consultants having assured that, in relation to trade, there is no usury even when one takes excessive profit from one's money, then that there is no usury even when the merchant gains one hundred percent; having given these attestations, if their doctrine could be admitted, it would result that the lender, having taken one hundred percent, would leave to the borrower only the risks of his speculation. Ho! it will be said, will the competition that will be there not be able to reduce the lender's claims? No, no, competition will not bring about any reduction.

The Frenchman, whatever his enemies say, still has virtues, and more than some people affect to believe; so that there are, strictly speaking, only a handful of usurers compared to the mass of citizens; this handful of monopolists coming together, through an agreement not oral,

but of interest, what happens? It happens that they put their money in their safe, do little business, and whoever they roll over in the square, they make him bring back the usury that they think should be brought back, plus that of the one who has remained idle while waiting for a very lucrative placement.

Thus, according to the notions that I have just presented, I believe I am authorized to say that the judgment of August 13, 1779 was dictated rather in favor of the particular circumstances of the case, than in favor of the so-called principles which were presented .

CHAPTER VII

Major principles which oppose the practice of Usury.

Throughout all times, and more in this one than ever, publicists and economists have called for freedom of commerce; this claim is founded in reason: because, as Montesquieu very well says, *liv. 21, ch. 5*:

Commerce, sometimes destroyed by conquerors, sometimes hampered by monarchs, travels the earth, flees from where it is oppressed, rests or is allowed to breathe; reigns today where we only saw deserts, seas and rocks; where he reigned, there are only deserts.

But as the freedom which must be granted to commerce must have its limits, the same author, in this respect, expresses himself thus, *lib. 20, ch. 11* :

Freedom of commerce is not a faculty granted to merchants to do what they want, it would rather be its servitude; what hinders the merchant does not therefore hinder commerce: it is in the land of freedom that the merchant finds countless contradictions; and it is never less crossed by the laws than in countries of servitude.

England forbids bringing out its wool; she wants the coal to be transported by sea to her capital; she does not allow her horses to leave unless they are cut; the ships of its colonies which trade in Europe must anchor in England; *it hinders the merchant, but it is in favor of commerce.*

So far these are only assertions; I will examine whether they are justified.

In the constitutions of Barcelona and in Capmany, I find that Dom Jaymes, in 1227 (Diplomatic Collection, n. 14, p. 11), to form, by all possible means, a powerful navy, wanted there to be no had the people of Barcelona who

could load goods in their port for Syria, Alexandria and Ceuta, on their own ships, led by them; and he prohibits this faculty to foreigners. This resolution having produced the effect that the monarch expected, in 1230, this privilege was extended to the neighbors of Barcelona, for the trade of the islands of Majorca and Ivica.

As it was not enough to create useful institutions to promote trade, and it was necessary to destroy those which could be harmful to it, in 1255, Don Jayme expelled from Barcelona the Lombards, the Florentines and the Lucquois, that is to say i.e. he expelled the *usurers* (Diplomatic Collection, n. 10, p. 35).

To perfect the act of navigation, in 1268, it was ordered by royal cedula (Diplomatic Collection, n. 15, p. 34), that no foreigner would operate or charter any merchandise which would not be his property. on a ship which is not from Barcelona.

This is the first act of navigation which served as a model for that of the English, which is today their palladium; and if this act singularly hampered the merchant, it must be

admitted that it singularly favored trade; consequently the advantages which resulted outweighed the disadvantages.

Lamothe le Vayer, in his works, *volume 1, page 283*, tells us that Philippe II (king in 1556) had ten thousand sheep transported, thanks to his marriage to the Queen of England Marie, to Spain, which there were so usefully employed, that the wool trade seems to have since passed from one place to another. (Boseobre, *volume 1, p. 106, nq*, says that in the time of Virgil (*Georgiccon, liber 111, carmen 105*) it was necessary, to have good wool, to take it in Italy. Peter IV (Pierre-le-Cruel, in 1350) king of Castile, was the first who thought of improving the sheepfolds of his country: he bought a flock of sheep in Africa. Cardinal Ximénès did the same 200 years later. negotiated with the king of Castile, through Marguerite of Burgundy, and obtained the purchase of 3000 sheep in Spain; his project succeeded in return for a commission which still exists today. Boseobre claims on the contrary that it was the Spaniards who did so. the first supplied the English with sheep; in any

case, if the state which gave its sheep to the other had not permitted their export, the other would not be its rival today in a large branch of agriculture and commerce. This is undoubtedly one of the anecdotes which prove the correctness of Montesquieu's maxim.

King George was ironically called *a button maker*, because it is not permitted in England to usury on his coat a button of the same material as the sheet on which it is affixed. But if we reflect that the large button factories maintain a large number of workers, and that they contribute to dividing capital and making it circulate in commerce, we will agree that the regulation which orders it thus has a purpose which is not without utility: for, in any well-civilized state, it is necessary for the legislator, through wise regulations, to activate as many hands as possible, and for this purpose to rigorously prevent any monopolization of things which are of primary necessity for man: such are, for example, coins and grain; also Chancellor Daguesseau said:

There are laws in commerce which have prevented, at least to a large extent, the abuse that human greed can make of the union of the qualities of seller and buyer; and this is undoubtedly one of the reasons which led the Grand Chancellor of the Hospital, author of the police ordinance of the year 1567 (one of the holiest laws that has ever been made) to forbid merchants of corn and other goods necessary for life, to buy them in the places where they sell them, nor even within the distance of eight leagues for the merchants of Paris, and within that of two leagues for the merchants of other cities.

We call hoarding the great accumulation and reserve of things which are of primary necessity for life; and we call a monopolist the one who, having made himself master of things of the same nature as the preceding ones, forces all those who may need them to pass through his hands and follow the harsh laws which he dictates to them.

If the hoarding and monopoly of grain presents an odious character, the hoarding and monopoly of money presents something even more odious; in fact, money, being the sign, the means of acquiring everything that is venal, is the base on which all transactions are based; this base destroyed or strongly undermined, a thousand disorders result in the public economy. When a person wants to indulge in usury, what does he do? If she has properties, she sells them. We know that many rich owners have sold their possessions to pursue this odious profession, then, when they see a favorable time, they borrow from everyone they can; then the loans multiply so much that a favorable moment follows an unfavorable one, they invest the money they have monopolized at the rate they please. I believe that such an individual is indeed *at the same time a hoarder, a monopolist and a usurer*.

The usurer says, to justify his detestable profession: Formerly I lived on 3,000 francs; everything is doubled: therefore, for me to live, I

must double my income, and for that I must incur usury.

This reasoning being also made by the worker, the artist, the laborer, the usurer ends up being on par with those on whom he wanted to place the full weight of circumstances; then, amending his calculation, to lighten the burden at the expense of others, who themselves follow from afar the same course, things find themselves carried beyond anything that can be imagined. But as neighboring states do not reason or do not allow it to be reasoned in this way, cutting evil at the root, they defend usury. Meanwhile, agriculture is being destroyed, our factories are falling and industry is being wiped out. Usurers, here is your work!

Economic principles, the principles of public law, are also opposed to the practice of usury.

Economic principles oppose this first of all, because money being the measure of venal things, it cannot be measured either by itself or by anything else. This principle answers this question: Is money a commodity?

I say that it cannot be measured by itself, because it would be absurd to measure a fixed measuring rod by a fixed measuring rod. It would be even more absurd to claim that the measurement of 9 feet is a toise of 6 feet. If such a claim could be sustained, to how many uncertainties would all the calculations of agriculture, commerce, and finance not be exposed? So nothing is certain, because all the ideas would be confused.

I say that money cannot be measured by anything else, because it would be absurd, for example, to want to measure a yardstick by a piece of cloth.

However, all these great principles disappear, as if by a magical art, under the pen of the calculating usurer. He lends 6 francs, and wants 9 returned to him, and the transaction which results from his calculation he calls sale: because, he says, money is a commodity, and I make it paid not only in because of its real rarity, but also because of its fictitious rarity, which I and my colleagues were able to create. According to this maxim, this other confusion of

ideas results: we can no longer say that money has increased or decreased in value, nor that commodities have also decreased or increased in value, since it no longer exists as a fixed point of comparison.

I fully expect that the usurer, who aims to fill his safe at the expense of public affairs, will not fail to reply: If a crown should only yield one crown, why then do the laws grant six percent per year? Doesn't the measure become in this circumstance the thing measured?

My answer is ready:

Territorial property yields at most, well at most, four percent, per year net. The land gives its fruits annually from this basis. I say that if the capitalist buys a piece of land with his money, he will benefit from it every year four percent net (I exaggerate this income to give stronger weapons to the usurers); if instead of using his money in land he invests it in commerce, this investment must not be for him a means of acquisition, but a means of compensation; also jurisconsults call interest *civil fruits*, *by allusion to natural fruits*.

But, it will be said, nature cannot bankrupt the owner, and the merchant can take away his money, does not the risk that the lender runs deserve some consideration?

When I say that land yields four percent net, I estimate this ratio very high; the money lender is sheltered from hail, from bad harvests, from the payment of taxes, from the cares and sorrows of agriculture; the price of one percent which he receives, the faculty of being able to realize his capital almost at the moment he wishes, well compensate for the disadvantage. Besides, if we allowed everyone to lend at the rate they liked, everyone would want to be a loan shark, and no one would want to be a farmer.

The principles of public law are also opposed to the practice of usury, because the usurer places a sacrilegious hand on the head of his sovereign, to tear off one of the most beautiful jewels from his crown; I will prove it in a very obvious way.

The right to manufacture currencies, and that of assigning a currency to them, being one

of the principal prerogatives of the sovereign, no one has the right to make the slightest attack on it.

The ancient sovereigns, little educated in monetary science, made frequent mutations in the currencies, which caused almost as many disorders as usury causes today; also, in relation to this reason, the reign of Philippe-le-Bel was cruelly agitated. Since then, philosophers and economists having shed great light on the pledge of values, sovereigns have renounced this cruel stratagem; because, as Don Diégo de Saavedera so well says:

Currencies are the apples of the republic's eyes, and we hurt them as soon as we touch them (*Ustaritz the deux. Part., p. 167, ch. 104.*)

Monetary changes take place in two ways:

1. By increasing the collection of units which is attached to the coined species, a collection which is truly its number, the

numeraire, and by decreasing this same number;

2. By intrinsically increasing or decreasing the matter that the species contains. I will only deal with the first mutation, as being direct to my object.

In monetary language, the mutation which takes place in the number, the numeraire, is called increase or decrease, depending on the operation which has been carried out.

To make this language sensible, I will present hypotheses.

If, for example, the emperor ordered that the five-franc crown was worth six, then the currency of this coin would be increased; if, on the contrary, he ordered that it would no longer be worth more than four francs, his cash would be reduced. In the first hypothesis, it would result that, compared to five francs that one owes, by giving a crown called upon the loan five francs, and since six, the creditor would have to return to the debtor one franc; in this case, while bidding proportionately, the creditor

would find himself burdened; it is the opposite compared to the decline.

When the usurer gives five francs for a year (He only lends for three months at most, to enjoy the usury of usury.), on condition that the borrower returns five francs, plus a quarter of this In short, does he not increase the monetary value of his coin, since, in relation to the *ace* in the number one hundred, he makes one hundred mean one hundred and twenty-five? What difference is there then between the monetary increase which the sovereign formerly made, and which he still has the right to make, a right which he does not use, and that made by the usurer? Here is the difference; it is divided into five points.

1. The sovereign increased the species of his currency in a uniform manner and for a certain time; then there was some certainty in the monetary sign. The usurer increases the amount of his currency in a distorted manner for at most three months, then

there is no longer any certainty in the monetary sign.

2. The sovereign placed a limit on the increase in his cash; The usurer does not pose any: he knows of no other than that which results from his monopoly.
3. The sovereign yielded to circumstances; The usurer gives in to his greed.
4. The sovereign increased his cash by a law to which he submitted. The usurer increases his by an arbitrariness to which he does not submit.
5. The taxes remaining the same, the sovereign, after a certain time, received less; The money being the same, the usurer, after a certain time, receives more.

The part of currencies has always been regarded as a very metaphysical thing. The usurer, without being a metaphysician, without often even knowing how to read and write, established a system, of which Newton and Copernicus undoubtedly would not have wanted to call themselves the authors; so true is it that

the thirst for gold gives a certain spirit to the most ignorant.

But, it will be said, is there really an increase in cash in a surplus of legitimate interest, the sum having to be returned at a distant time? Yes, there is an increase in cash, since for this distant period, the debtor gives five percent; and that what he gives for the surplus increases the value of money in the same way as it would increase it if he counted the capital and the usury at the moment he receives the capital; and since there is only extreme need that can lead one to subscribe to such a onerous commitment, it only becomes more odious.

I have undoubtedly just clearly demonstrated that the usurer increases what he calls his merchandise arbitrarily, harming society and injuring the prince. Let us see, in this regard, what laws are applicable to it.

Boizard, monetary author, puts away the crime; which I write about in the ridging class; here is how he expresses himself, page 370; chapter 5:

We call a billbiller someone who takes undue advantage of cash to the detriment of ordinances. Billioning is a capital crime which can be committed in several ways, as they were marked in the ordinances of the years 1559, 1574, 1577, 1578 and 1620, and in the judgment of the court of June 13, 1600.

The author, after having deduced several ways of doing ridging, expresses himself thus on the one which concerns us:

We are billboarders when we only want to receive cash at the price of the ordinance, and when we only want to expose them to the price they have through the increase of the people.

This last method of *ridding* is perfectly applicable to usurers; if you owe them 9, and you offer them 6 to free you, they will refuse your payment. If you borrow 6 from them, they

will not lend to you unless you agree to pay them 9.

The law of 29 Ventôse year 14, a time when the severity of the punished was considerably relaxed, states, article 2:

Those who refuse to receive in payment the metallic coins struck on the coin of the republic, for the values *whose imprint they bear*, will be punished, for the first time, with a fine tenfold of the sum refused; for the second time, a hundredfold fine; and for the third time, two years of detention.

However, as usury is a qualified crime, and as the laws are in no way equivocal in this regard, as they have not fallen, nor can they fall into disuse, as all the principles that I have deduced prove, and which I will deduce, it is therefore necessary to apply to the usurers the laws which were made for them, although in fact they are at the same time, usurers, monopolists, monopolists and profiteers.

Moreover, as I do not want to *half-convince*, I am going to add a few paragraphs to this chapter; although they are not quite in their place, they will not be less interesting.

Locke, in his *Monetary Considerations*, wants the rate of interest not to be determined by particular laws, and that it should therefore be left to the arbitrariness of the contracting parties.

By the Manifesto which was made in Piedmont, by the senate, on April 24, 1767, the doctrine of the economist was legalized; but by the General Constitutions of Emmanuel, of 1770, it was said, *liv. 3, tit. 16; chap. a, art. 24* :

The consulate may award interest in favor of merchants... provided that it does not exceed six percent... and that... this rule does not include interest on *exchange* and *spare parts* ; but if they are loans made by merchants to those who are not, as with any other debt, they will only be able to demand *ordinary interest* ; which will also

take place between traders, when the debts arise *from particular causes* independent of trade.

This constitution therefore implicitly recognizes a conventional interest in favor only of merchants, and not in favor of any other person.

To fully understand the spirit of this constitution, it will be necessary to say a word about the localities, and about the sovereign who dictated it, in order to prove that if it suited the states of the house of Sardinia perfectly well, it does not may not be suitable for any other state, particularly France.

The former Count of Argenson, in his *Interests of France with its neighbors*, said, speaking on the states of Emmanuel:

This monarchy is of the proportion necessary to be well governed; also King Victor had regulated it as well as a republic can be; in his time it was, so to speak, a straight-line state, everything was

provided for; he wrote all the laws in a single code; finances and even military administration, everything there reflected the cleanliness that one sees in small households; the great monarchies, to recover from the indolence that their greatness entails, could have learned useful lessons applicable to each of their provinces.

Groslav, *Observations on Italy, volume 1, page 73 et seq.*, speaking of Charles Emmanuel, expresses himself as follows:

All the powers of Europe have alternately felt what the king's genius can do in the cabinet and in battle; this prince himself regulates the expenses of his household, directly influences the smallest parts of the government; no political or *economic detail* is foreign to him. ...The merchants who complain that they are being sacrificed...have no resources, to build or

to support their houses, other than frugality and economy.

When the constitutions of Sardinia appeared, Piedmont and Savoy were almost entirely agricultural, their productions consisting of grain, silk, cattle, etc. ; commerce, strictly speaking, and manufactures were almost nothing compared to agriculture. The nobility, according to Groslay, was very poor there, and according to Busching, they lived in a state of oppression; money must undoubtedly have been rare there, because Busching observes that it was forbidden to invest it abroad, either in annuities or in real estate.

By summarizing these assertions, we obviously see that the states of the King of Sardinia, in 1770, were infinitely more agricultural than commercial; that there was not much money in circulation; that undoubtedly, contrary to what is practiced in France, the owners of capital preferred to lend to the owners rather than to the merchants, and that, for the latter to find something to borrow, to do their

business as well as possible, it was necessary for them to allow the interest on money to be stipulated at will; consequently, the constitutions of 1770 must not cross the places for which they were established.

Because, if Voltaire said (*Defense of the Worldly*), betting in favor of luxury:

Know above all that luxury enriches a large state, if it loses a small one.

We can say, with no less truth:

Above all, know that what can enrich a small state can impoverish a large one.

CHAPTER VIII

The ravages caused by usury.

I will expose to my readers the chain of ravages which result from usury and the first ring of which is held by the hand of the usurer; I will unfold before his eyes the frightening picture of the incalculable evils which result from it; finally, I will prove what disorders usury causes in agriculture, industry, commerce, finance and justice; all this being painfully felt by those who are its victims, they will no doubt be grateful to me for speaking out against such detestable practices, which bring with them a host of calamities.

Disorders in agriculture. Most owners, selling their property to make their money profitable through usury, competition diminishing their natural value, they fall into debasement; those on the contrary who are wise enough to keep their properties, being obliged to borrow to carry out their operations, their land

bringing them only three to four percent, borrowing at twelve, fifteen, etc. etc., they are obliged either to ruin themselves entirely, or to discontinue their operations; it is especially on the owners of the vineyards of the south that this calamity weighs particularly heavily; letters from this part of France announce that they will be forced to let a large part of their abundant harvest perish on the ground. Hey, how could they collect it, if they are obliged, to make their harvest, to borrow money whose price will be higher than what they will get from it? In Bordeaux, most owners intend not to cultivate their land next year. If all this is correct, how many unfortunate people will there be reduced to the most dreadful misery?

Trône and Mirabeau tell us that there are one million six hundred thousand acres of vines in France.

The author of the *National Credit* has eighteen million six hundred thousand acres.

Boseobre, one million six hundred thousand acres.

Arthur Young, four million, nine hundred and twelve thousand, nine hundred and eighty acres.

Boseobre says that a corn field of one square league in France occupies and supports 1390 people, and a vineyard of the same size, 2640. From this presentation, let us judge how many unfortunate reduced laborers there will be to alms, if this cultivation is partially suspended, or if it is not done with some activity.

It will undoubtedly be observed that the owners of the southern vineyards only suffer because the abundance of wines is great, and there is no export. It must be admitted that these are great obstacles to their prosperity; but the greatest obstacles, not to their prosperity, but to their support, are those created by usury. I have already demonstrated that the usurer increases his merchandise due, he says, to circumstances; everything that is commercial tends to reach this price, everything increases, and the workers, to achieve this increase, being forced to increase their day, the owner then finds himself burdened with the following:

He pays the usurer very dearly;
He also pays for everything that is useful
for his exploitation;
He also pays all the farmers who are
necessary to him;

Being obliged, in this disorder, to send
away many people who, falling into poverty,
only consume what is absolutely necessary for
them, although the wine is very cheap, due to
not being consumed domestically, as it should
be, it becomes almost worthless in the hands of
the owner.

Disorders in relation to the industry. The industry is driven by exports and domestic consumption. Two kinds of industry are put into action in society: that which is intended to satisfy real needs, and that which is intended to satisfy the needs of opinion which, for the most part, want to be satisfied like the preceding ones. Let us admit that no export can be made, although the neutrals could well serve us by

employing certain means of which it is useless to speak, and that we are reduced to internal consumption: as it is necessary, at whatever price, that the needs are satisfied, if usury and tear allowed us to breathe for a single moment, we would see in our vast state a very great activity in the works; but when the manufacturer wants to operate his factory, if he is obliged to borrow money at an exorbitant price, and then pay his workers at a very high price because of this inconvenience, the sum of the expenses exceeding that of the income, we must either stop, or trudge along painfully; the inactivity of industry, arts, sciences and trades therefore comes from usury and tear.

Disorders in relation to trade. A trade of a certain extent, carried out with loyalty and good faith, yields at most ten percent net per year; if the merchant gives twelve in usury, he cannot sustain himself for long; and this is why Portugal, with great resources, has always declined, and why the Dutch, simple peddlers, have flourished; in Portugal, the money was twelve, and in Holland, it was two.

If we destroyed usury, it is said, the merchant would not find any money to carry on his business. Let us admit for a moment this paradox, will it be such a great misfortune that someone who earns only ten percent cannot find anything to borrow from at least twelve? On the contrary, I believe that it would be a great good; also every time that merchants consulted me on their position, when I noticed that they were losing more in usury than they were gaining in their trade, I advised them to put their balance sheet back to the sooner, and this in their interest as in that of their creditors; those who did not want to follow my advice ended up missing, not, I suppose, 50,000 f., but 100,000 f. It is therefore well proven that commerce cannot sustain itself with the enormous usury with which it is burdened; hence a host of bankruptcies, which are so many public calamities.

If, when you examine the balance sheet of a bankrupt, you want to know at first glance what is the cause of his misfortune, do not look at the chapter of natural losses, they are

generally little things; but look first at the chapter of the usury with which he was burdened, and then at the bankruptcies that the usury caused, and you will find what you will be interested in knowing.

Disorders regarding finances. Some people seem to think that the taxes weigh a little too much on the citizens, without paying attention to the fact that their sum, compared to the current state of affairs, is not equivalent, very closely, to that of the past.

The mass of impositions is to the economic order, what the great spring is to a mechanical part; Is this great spring, in both, destroyed? The machine no longer moving can be considered as no longer existing.

The mass of taxes being the great spring of the state, it must therefore be maintained at whatever cost, otherwise everything is lost; However, agriculture, industry and commerce no longer bring the same tribute that they brought to finances; this mass of taxes, once again, having to always be the same, the sovereign is obliged to distribute the deficit on

objects which he would not have thought of without this inconvenience; consequently, usury preventing agriculture, industry and commerce from paying the tribute they owe, it is therefore singularly harmful to finances: Because in the final analysis, the usurer will end up seizing everything, and will not will leave nothing to anyone. Moreover, the usurer exercises what he calls an industry, his type of trade exempting him from the law on patents, he does not pay any; However, he would pay for it if this resource failed him, and if he was forced to make a more honorable state.

Disorder in relation to justice. The increase in price that usury produces in everything that is commercial, forces people attached to the judicial order to raise the price of their fees; moreover the one who, wishing to plead rightly being obliged to aggravate his position by great expenses; abandons its claims to avoid this inconvenience: when it comes to forced expropriations, the creditor is obliged to renounce it; first, because the object encumbered by mortgages no longer represents

the same value; secondly, because the money necessary for such a pursuit is too expensive. In this case, the creditor must therefore remain inactive, and this is really his best bet.

CHAPTER IX

Examples given to prove that political circumstances are not as unfavorable to trade as people think.

Formerly we had internal trade and foreign trade; let us admit, and very rigorously, that the latter no longer exists, and that we are reduced to our sole resources.

France is currently the most powerful state that exists in Europe, both in terms of its extent, its population, the activity and genius of its inhabitants, and its production. Will we believe that more than 30,000,000 individuals, under the pretext of political circumstances, which are nothing other than usurious circumstances, want to stay and live in inaction? No, we cannot believe this error. If all are therefore willing to work, there is no doubt that all are willing to consume. Commerce must necessarily result from work and consumption: but for commerce to work, it will be said, money is needed, and there is none. There is no money! Where has

gone the one that existed, the one that has been manufactured since, and the one that resulted from contributions paid by foreigners, from the silverware of churches and that of individuals? Was it, by some sort of miracle, buried underground? No, he buried himself in the safe of the usurers: consequently if the usurers open their coffers, production will be reborn, commerce will be exploited and consumption will take place. This, I will be told, is a fine theory, but will practice respond to it? If we can judge the future by the past, I will prove that practice would match theory perfectly.

I open the *Observations on Italy* by Grossay, *volume 1, page. 105*, and I read there:

Milan was never more populous, richer, more flourishing than in the time of its greatest disasters; it was thus with all of Italy in the midst of the fire of the wars of the Guelphs and the Ghibellines... Can we, by some approximation, apply to this problem the causes to which Mr. President Hénault relates the assistance of great men

of all kinds What produced these stormy centuries that we only love in history? In these times of crisis, says this elegant and profound historian, happy and unhappy events repeated a thousand times strengthen the soul; increase her strength, let her see nothing where she cannot reach, and inspire in her this desire for glory which never fails to produce great things.

No, the fortune made by Milan and Italy amid the din of foreign arms, the torches of civil wars, was not due to the crises in which they found themselves; They owe absolutely nothing but feats of arms and other similar things; this fortune was therefore the work of commerce alone, which, although it was burdened with usury, was not nearly as much as today. Read the history of all nations and peoples, you will not find any that can be compared to that which distresses us. If I only had Milan and Italy to mention, perhaps Lien could doubt what I am saying; but I have another no less striking example to offer.

In 1221, almost all of Europe was in arms, internal wars devastated the towns and the countryside; one could hardly go by land from one place to another without guards and safe conduct. A historian from Lyon tells us that in 1209 the princes gave safe conducts and guards to a merchant from Lyon, named Ponce de Chaponay, to escort his money when he passed through their lands; moreover, the seas were covered with pirates. Despite all these great obstacles which seemed to absolutely stifle trade, here is what Aigrefeuille says, *Histoire de Montpellier* page 80:

James II, lord of Montpellier, during his marriage in 1221, received as a gift from this city a very rich piece of cloth of gold, which a merchant from Montpellier had brought from the Levant, it was a fruit of the care that the young king's advice was to make trade flourish in his states... The services that James could obtain from this city, combined with those he already found in his ports in Catalonia, easily put him in

a position to undertake some glorious expedition for his person, and useful for his kingdom.

In 1221, trade, in a great political crisis, therefore had some brilliance in Montpellier. Why? Because enormous usury and tear did not suffocate him. Political circumstances are therefore not currently as contrary to commerce as one thinks, especially since today all kinds of knowledge are much more perfected than in the thirteenth century.

CHAPTER X

Of legal interest, and of commercial interest in relation to money.

Montesquieu, Iiv. 21, chap. 16, speaking in favor of Legal Interest, expresses itself thus:

Aristotle's philosophy, having been brought to the West, greatly pleased the subtle minds, which, in times of ignorance, are the beautiful minds. *The scholastics* were infatuated with it, and took from this philosopher their doctrine on loans at interest; they confused it with usury, and condemned it.

Aristotle, Pol., l. 1 C. 9 and 10, posited that it was against the order of nature for money to produce money. Aristotle's philosophy, following; Legendre, was brought from Greece to Spain around the year 1050, and from there it passed to France about that time. In the Middle Ages, from around the year 900 until 1300, the

people, trampled underfoot by feudal anarchists, groaned in deep misery, except in the trading towns. The petty tyrants who had dared to shake off the yoke of sovereign power, after having usurped royal rights, only came down from the top of their dungeon to feudally demand life or a purse from the unfortunate merchants who passed through their land, even at the using a safe conduct stamped with their seal. The vassals of these species of ambushes were themselves hardly more spared than the foreigners; the properties being uncertain, usury increased in proportion to the risks involved in making one's fortune known: especially since internal wars and thieves of all kinds desolated the countryside and the cities. During all these calamities, and despite the Capitulary of Charlemagne which vigorously proscribed usury: capitulary which naturally was little known, usury presented itself and brought with it all the disorders which are inseparable from it.

The scholastics (at that time those who governed the ecclesiastical schools were called scholastics) affected by the misery of the people,

who were a composite of different religions, and not being able to argue in relation to all these religions, according to the passage from *Deuteronomy* who proscribed usury, took hold of the doctrine of the Greek philosopher, and put it to good use as best they could. This first attempt having succeeded, they believed that it was not enough to blunt the dagger which was slitting the people's throats; they broke it by forbidding all kinds of usury and interest. If this fact is correct, we see that I attribute the abolition of all kinds of interest, not to enthusiasm, as Montesquieu does, but to morality and politics, and this could all the more be operate without danger, and, what is more, became all the more useful as there was almost no trade.

For a contrary reason, Montpellier does a lot of trade, as proven by the famous Jewish traveler, Rabbi Benjamin de Tudelle, who wrote in 1170, Montpellier, I say, did not stop practicing loans at interest. Also its statute, composed of ancient customs, and written in 1204, it bears, article 68

The demand for usury (at that time, the words usury and interest were synonymous), denarius for denarius, is void and must be rejected unless it has been promised by oath; and it is a common right, both to Christians and to Jews, that the oath and the full faith be kept in the usury loan.

This quote therefore proves that it is useful to accept loans at interest, especially in commercial places; moreover, as Ulpian says very well, *he pays less when he pays later*. The lender must necessarily receive his entire sum, and he receives it entirely by receiving his capital, plus the civil fruits which are interest. But what was the interest for Montpellier? It appears that it was the one prescribed by Justinian: six percent at most. In Venice, according to Grosley (Observations on Italy, volume 2, page 99, in the note. This author wrote around 1768.) money is sold or pledged at the price agreed between the buyer and the

seller; disputes over this treaty, he adds, are brought to the Pioveggi court, which settles the interests.

As Venice carried on a great trade, and this freedom, far from having destroyed it, seems to have favored it, it would seem that it must be the same everywhere. If we thought like that, we would be very wrong. First, Venice had a bank, which by its institution became the regulator of interest, and an ad hoc tribunal which knew how to lower the too onerous claims of the creditor, when he wanted to raise them too high. We cannot therefore establish as a general rule that the freedom to stipulate interest arbitrarily could be as favorable in France as it was in Venice.

In all well-organized states it is necessary to establish a legal rate for interest, and to tolerate a rate for commerce; and if this tolerance must extend over the *minimum*, it must never pass its *maximum*. Example: in 1789, commerce lent and took at six, while the law only allowed interest at five. The merchant who took six has never been considered a usurer; but if he had taken, for example, six and

one sixteenths, all his colleagues would have shouted at him and abandoned him. To destroy these assertions, it would undoubtedly be useless to cite a few particular facts: from the fact that a few tigers with human faces slit their throats, it does not follow that everyone indulged in this cruel excess. The last law which fixed the rate of interest was the edict of 1770, which raised it to twenty deniers, or five percent. This law is based on the reason: since territorial property is four at most, the compensation for the money lent cannot go higher than five percent.

CHAPTER XI

*Means used by usurers to exercise Usury.
Reasoning which has been made to prove that
all the laws made against Usury are useless, as
being very easy to evade; refutation of this
reasoning.*

Before license had brought usury to its height, a few men, lost in public opinion, acted as a usurer and to cover their usury, they had a private or authentic contract drawn up, which charged the real capital, and notes for the usurious interest; consequently the law was violated so skillfully that it was hardly possible to demonstrate the violation.

If I prove that in any other contract a violation equivalent to this one can take place, then one of two things will be necessary: either there is no law on all these cases, or else there have some passable ones.

For example, cannot a merchant make a simulated donation, appearing to associate with him the person he wants to favor, under the

pretext that he has brought his industry into society. This has been seen and will continue to be seen, since the law on donations as well as on usury can be evaded; then there is no need against these two species. However, if claims are made about such arrangements before the courts, as these courts are composed of honest and enlightened men, by following all the twists and turns of the usurers, they end up discovering the truth of the facts, as it happens every day in criminal matters. If this is so, we can therefore attack the usurer like any other knave; consequently, the laws against usury are not useless: if we only saw three or four in irons every year, there would be enough to impose on thousands.

Usury being most ingenious, it comes in all kinds of shapes and colors.

When a usurer lends his money, as has been said, he lends it for at most three months, retaining the interest in advance; the interest, thus being taken in relation to the three months, is increased by all the difference between the deadline and the one at which it was taken;

consequently, if Ulpian rightly said *that he pays less who pays later*, we can say with no less reason, *he pays more who pays sooner*.

Is the interest not paid in advance at the end of the three months, this interest, included with the capital, making only one mass, the commitment being thus renewed from three months to three months, it At the end of the year, excess usury results; finally, the sharpness of the usurer is so great that he calculates time by the hour and the minute.

If we were to tear out of the Code all the laws that are easy to evade, we would have to tear up all those which are applicable to crimes, since crime is almost always committed without witnesses and with great precautions; but if we must leave all those that we can maintain by following on the clues, the laws on usury and crimes must be maintained.

Consequently, I say that the laws passed against usury, like other laws, must be maintained, and that their execution must be strictly monitored. In this case, the law beginning to apply the stigma to the usurer,

public opinion will finish engraving it on his forehead in indelible characters.

CHAPTER XII

Explanation of the law which declares coined gold and silver to be commodities. Explanation of the articles of the Civil Code which relate to the interest of money.

Error is inherent to humanity, as rust is to iron, no matter how much we polish this metal, and protect it as much as possible from contact with the air, the slightest vapor dulls the shine. which he received from the hand of the artist, and the rust which ends up attaching after him, sooner or later proves the vice which is particular to him.

In the same way, no matter how much man studies and becomes learned, among the masterpieces he gives to society, we always find certain parts which make human weakness recognized and which, consequently, prove the error to which it is based. His subject demonstrates the vice of his knowledge.

The Daguesseaus, the Montesquieu, are undoubtedly men justly famous in the republic

of letters and legislation: read their works, and you will see in certain paragraphs that they are men like the others.

Hey! what shall we say of this written reason, called *Roman Law*, this arsenal where all parties equally find weapons in the antinomies which meet there. Also S. Bernard, when speaking against the introduction of this right in France, he wrote to Eugene III, pope in 1145, that it was not a body of laws, but of processes: which made Alexander III, pope in 1161, judged it appropriate, at the Council of Tours, to prohibit its study to monks.

Did S. Bernard himself not err in speaking out a little too strongly against a collection which, despite the faults it presents, is an immortal masterpiece? And what is most singular is that several great men who wrote after him used the same language. Indeed, we saw Montaigne pity his homeland because it had adopted so many laws which he said were *foreign* and disparate; as if written reason was not for all countries, for all peoples.

Fortescue, head of justice, and since chancellor under Charles VI, king of England, wrote a book entitled *De Laudibus legum Anglice*,

<https://archive.org/details/delaudibusleguma00fortuoft>

to reject Roman law; and Hoffman assures, that after having studied Justinian's laws deeply, he recognized *their uselessness* and danger.

If all these great men had meditated as much on the beauties of Roman law, as they had studied its faults, far from having proscribed it en masse, they would have advised distracting its deformities and preserving its beauties. .

In France we have very learned and very profound men on all parts of the economy and public administration; nevertheless it seems that, by an inevitability in France as in England, very few of these scholars have taken up the task of studying with care and perseverance the great monetary principles: also Stenart says, *lib. 3, chap. 7, page 377*, speaking in relation to gold and silver on the ratio of the weight of Troy and the weight of Mark:

What a shame that, in the century in which we live, we can only arrive at this relationship by approximation!

If monetary knowledge had been cultivated in France with more care and perseverance than it was, how much would the people who would have cultivated it have prevented lawsuits as scandalous as they were ruinous, and with what ease would they have undermined usury in its foundations. Let us therefore try to lay certain foundations, and discuss the old laws and the new laws.

Art. 1st of the edict of 1770 irrevocably fixes the rate of interest on money at the denier twenty, that is to say at five percent.

Art. 2 declares contracts made at a higher rate usurious, and even authorizes extraordinary proceedings against lenders who violate article 1.

Art. 3 orders the judges to only order the interest payable at the same rate of five percent.

The law of October 3, 1789 requires that interest cannot rise above the rate determined by the law.⁵ It allows the stipulation of interest in contracts where capital is not alienated.

The law of April 11, 1793 forbade stipulating in coined cash, and forced stipulating in assignats, for barely six years of iron.

The law of 6 Floréal year 3 declared coined gold and silver a commodity, twenty-six days later, that is to say on the following 2 Prairial, this law was reported in these terms:

The convention... reports its last decree which declared coined gold and silver commodities; orders the execution of previous laws which prohibit the trade in metallic currencies.

The law of 5 Thermidor year 4 allows each citizen to contract as they see fit; this freedom gave no other faculty than that of contracting in money or paper.

That of 15 Thermidor year 5 was only made in relation to the reduction of obligations

contracted in paper money, prior to its promulgation.

Article 1153 of the Napoleonic Code states:

In obligations which are limited to the payment of a certain sum, the damages resulting from the delay in execution never consist of anything other than the penalty of *interest fixed* by law, except for the rules specific to commerce and suretyship... 'art. 1907 is thus conceived: The interest is legal or conventional; the legal interest is fixed by law, whenever the law does not prohibit it.

The conventional interest rate must be fixed in writing.

From this presentation, this series of questions results.

1. Did the edict of 1770, which fixed interest at five percent, cease to be in force when

the law of 3 Floréal year 6 declared coined gold and silver a commodity?

2. Can coined gold and silver be considered commodities?
3. What does the law mean by these words, coined gold and silver are commodities?
4. Whether coined gold and silver can or cannot be considered as commodities, has the law of 2 prairial, which relates to that of 6 floréal year 3, put things back to their original state? What do *arts. 1153 and 1907* of the Napoleonic Code?

On the first question. The edict of 1770 was not repealed by the law of October 3, 1789, since it maintains it with these words: *interest cannot rise above the rate determined by law*; and the law of 3 Floréal year 6 saying nothing, implying nothing in relation to interest, this absolute silence therefore still leaves the edict of 1770 in force.

On the second question. It is necessary to distinguish, in relation to the law of 3 Floréal year 6, coined gold and silver partially

demonetized; money (whatever its material or substance) regulates everything, even coined gold and silver, of which we have just spoken; or not monetized, as are the raw materials.

During the law of 3 Floréal year 6, the one and only measure of value was paper money; in his regard Gold and coined silver were a commodity, as could be ingots, raw materials of precious metals; so that paper money bought metal money, but metal money did not buy paper money. I think that all this is obvious, and does not involve the slightest dispute. Consequently, what the convention did in this regard in no way offended monetary principles: but if, having explained itself in general terms, it had said:

Money will be able to be sold, it would have contravened monetary principles all the more because it would have granted a faculty impossible to achieve. Indeed, what is a currency? A currency is a measure; now, as a measurement presupposes a thing to be measured, hence the distinction between two things of different nature; thus the nature of one

constituting what we call money, the nature of the other constituting what we call merchandise, gold and silver coined, or any other substance coined, cannot therefore be a commodity in relation to the commodity itself, any more than the measure can be its own measure. All this, I believe, is still clear and obvious

for want of having made these natural distinctions, to how many calamities have we not been delivered! In the term loan, we saw a sale of coined silver, the price of which must have been paid in ancient times, and then, against all the calculations that reason dictates, we said: A hundred given at present, is equal to one hundred and fifty handed over later. We found in this *inequality* an *equality* which gave the equivalence which is found, or at least which is supposed to be met, in the sales contract.

If in this circumstance there had been a sale, as the sale can be entirely consummated immediately as well as at a later date, it would therefore be necessary to say, adopting the received sophisms, and supposing that the sale was entirely consummated on- the field, that one

hundred is equal to one hundred and fifty. Certainly, I do not think that any mathematician would be tempted to adopt this relationship, nor that anyone would be determined to make such a transaction. Moreover, if, in such a transaction, there was really a sale, the purchaser, upon his release, would not return to the seller a thing of the same nature as that which he received, since, as has been said, the measure is of an entirely different nature than the thing measured, but it would render another thing; consequently in a transfer of one hundred to have one hundred and fifty, we must not see nor can we see a sale, but a loan which includes capital, plus legitimate interest, plus usury. I will develop this idea, presenting some principles.

On the third question. Some modern economists, English, Italian and French, wanting that the interest on money should not be fixed by law, but only by arbitrariness, these opinions have been received by people who, moreover, have a lot of education and knowledge; also having not meditated enough on the law of 3 Floréal year 6, having thought they saw that this

law established the so-called principle of the economists, their blindness was such that they did not pay attention that the law of the following 2 Prairial reported the previous one, and wanted the old laws to resume their empire; thus, even if it were possible for the coined species to become a commodity, even if the law had sanctioned this false principle, this law having been reported, it must be considered as non-existent, and the only ancient laws, such than that of 1770, are those which present the unique rules; thus the law of 2 prairial has therefore returned things to their primitive state.

On the fourth question. This question is infinitely more difficult to resolve than the previous one, by the discussions which arose in the Council of State (See the Discussions of the Council of State, by Messrs. Jouanneau and Solon, volume II, pages 265 and 614) , we see that the legislators had no other intention than to give the greatest freedom to citizens, a pure intention which calls for the greatest recognition; nevertheless, putting as much caution as possible in such an important matter,

it is easy to see that they wanted to carry out a test which they proposed to modify subsequently, if the results did not meet their expectations. Nevertheless, some members having spoken against the arbitrary faculty of interest, others having spoken in its favor, this resulted in articles in the Code, notably those of 1153 and 1907, which provide interpretations favorable to the unfortunate debtor, and all the more useful since the laws have always tended to favor him, and he more justly deserves this benefit, today when he is a cruel victim. These two articles, according to me and undoubtedly according to just people, are a masterpiece of prudence: if the legislator had explained himself too categorically in relation to the creditor, the latter having abused the excessive latitude of the law , which it carries would today be open to the unfortunate debtor to escape his greed? If, on the contrary, the creditor had used the power given by law moderately, what avenue would remain for him to escape the bad faith of the debtor? Thus, the law lends itself to interpretations based on justice, I will try to give

them without argument, and according to the discussions of the Council of State, of which there are, as I have said in others tarnished, opinions in favor of mine, and others against, which makes them null, since they neutralize each other reciprocally, prevent arguing from them.

I have proven that, until at least 2 Prairial year 5, the edict of 1770 was in all its force and vigor; the question currently consists of knowing whether the constant habit of usurers of taking large amounts of money since that time could have caused this good edict to fall into disuse.

First principle. Equality of condition is required in all contracts; if it is not there in a mathematical rigor, and that nevertheless they are validated by the laws, it is because in commerce there are many things which only really have value that which exists in the opinion, which is often most precarious; also, as the value of land presents a kind of certainty, the former legislator admitted the lesion of the other

half. The *Napoleonic Code, art. 1674*, admits seven-twelfths.

Why, one might say, does the law want the *recession* to take place only in relation to the seven-twelfths, since the funds of land are to their fruits as 100 is to 3, 4, 5?

There were very decisive reasons for wanting it this way. New outlets, a new improvement in culture, a new system of taxation, new establishments that can be made, or old ones that can be destroyed, presumed devastation, finally a thousand circumstances can contribute to impoverish as well as enrich a land especially ; but it is no less true that the law recognizes the principle. It had to be, because it is indisputable.

Second principle. Land is the first measure of values, it is to it that all others relate. Money is naturally only the second; but by effect of the law, an effect which was granted to it in relation to the great value which it represents in its small volume, and in relation to its other intrinsic qualities, it has become the supplement of the first measure.

The land exists before money, and being the source from which all wealth flows, it is to value what the mandate is to the agent, that is to say, money is a substitute. (It is presumable that some people will find the words mandate and agent inappropriate; if this is so, what will they say of the apologist of usury, Jérémie-Bentam, who gave the power of attorney for his usury clients to the horses of his stable, to make them represent the money and its effects; if he had given it to donkeys, still passed. As no one has claimed in this circumstance, I like to believe that it will be the same. in this one.)

Third principle. Money being the substitute for the earth, like it, it measures everything that is venal, and yields fruits annually (The relations of the earth are called natural fruits, and those of money are called by the juris consults, fruits civil, because of their analogy with the first.) it can produce neither more nor less, having regard to the proportional average of territorial relations. From this incontestable principle follows that of the interest of money: thus, assuming that the land

yields four percent per year, money cannot yield more. However, as it is difficult to establish a fair proportional average, and it is necessary to encourage borrowing, the law grants five percent, and that is a lot.

Disturb the balance of this naturally established order of things, you will not do it without giving superiority to one of the two over the other. This principle explains what is happening today: the balance which resulted from the relationship between the value of land and that of money being broken in favor of the latter, the land is in debasement.

Exchange . Exchange is a contract by which the contracting parties reciprocally give each other certain things (except coined money), or any other non-monetized substance whose intrinsic value is related by them in particular to that of money. In the exchange, the contracting parties can give each other things of the same kind and of different kinds or species, but not of the same kind and species, all other things being equal. When, for example, a person gives and receives from hand to hand a shield of the same

weight, title, manufacture, etc., there is not there, strictly speaking, an exchange, because the parts remain in the same state, because they have absolutely the same object; now, as the exchange only takes place based on the expectation of an advantage, nor having any point in the hypothesis, there can therefore be no exchange. From there I draw these conclusions: In two things of the same kind and the same species, all things being equal, these things being measured with respect to each other, being absolutely similar, as such becoming thousands of measures, they remain without effects; and that if, always things being similar, an addition is made to one of them, there will be, on the part of the liberal contracting party, a donation in relation to this addition; but for that there will be no real exchange.

Sale . The sale is a contract by which one of the parties undertakes to give a thing to the other, in exchange for a price in coined money; if she obliged herself to give any other price, there would not be a sale, but an exchange.

If the thing is paid for immediately in anything other than money, there is an exchange; if it is paid with money, there is a sale; if it is payable at a certain time with anything else, there is first an exchange, which is then converted into a loan, made of the thing which one is supposed to have received in order to be reimbursed by *gift*; it is the same thing if the payment must be made in money, that is to say, there is a sale, then a loan.

From these principles, I will draw these corollaries.

1. In exchange, things are measured against each other. In sales the thing is measured by money.
2. Exchange can take place in things of the same kind and nature, provided that there is at least a slight difference; the sale can only take place when the two things which suit the species are of different nature, and one, which is money, has a fixed and determinate value; while the other, which

is the commercial object, has or does not have a fixed and determinate value.

With regard to money, to destroy the principle that I have just presented, it would be useless to allege the variability of the value of gold in relation to that of silver, and *vice versa*, and of that which can be have both precious metals compared to that of the earth; although their abundance or their real rarity seems to prevent them from being accepted as a measure, nevertheless as this disadvantage only presents itself very slowly, producing effects that are, so to speak, insensible, they should not be of no consideration.

Interest loan. In the loan at interest, as in the contract of exchange and sale, all ideas of value relate to that of the land and its products, since the value of money is measured on that of the land, it It is incompatible for the thing represented to give effects other than those which the thing represented must give. Hence the need to deviate very little from this basis.

From the presentation of all these principles, it follows that, if we make money bring in more than land brings in, all calculations being destroyed by the destruction of the base, we can only hope for disorder and confusion.

The word disuse comes from the Latin *desuetudo* , which means *out of use* ; in the language of law, this word seems to be synonymous with abolition, and is said in relation to the law which is destroyed and which is out of use; however, as since the law of 2 prairial year 3, which confirms the edict of 1770, the courts have always consistently pronounced according to this edict 5 that article 1155 of the Napoleonic Code implicitly recalls it, saying that: the interests ... *never consist* (in sentences) of anything other than those *fixed* by law; it is quite obvious that the edict has not fallen into disuse; but as the article adds, apart from the rules specific to commerce, the question consists of knowing currently what these rules are.

The word rule being metaphorical, presents us with the idea of something straight, regular, uniform and certain. Where will we find this regularity, this righteousness and this uniformity? Will it be in the rate of usurers who take from ten to one hundred percent, or in the rate of commerce, which formerly took six percent throughout France. (It would be useless to cite some particular brigandages to destroy this assertion. We know that if, in 1789, a merchant had lent at six and one sixteenth percent, he would have been dishonored. Therefore, etc.) Reason, justice, the nature of the rule, therefore also want it to be neither the usurers who set the tone, nor the current circumstances which are destroying commerce, but the rule which was practiced in the past, that is to say the rule of six for hundred.

Art. 1907 of the Code recognizes two interests, legal interest and conventional interest. The legal interest is, as we have seen, that fixed by the edict of 1770, that is to say that fixed at five percent; the conventional interest is that fixed by trade, that is to say that it is that which

was fixed by the parties at 6 percent. This faculty of conventional interest is an amendment to the edict of 1770, and this amendment is based on reason.

It seems to me already to hear people say that the explanation I give is full of subtlety, and to see the people whose greed it upsets calling for discussions in the Council of State, and especially to say that the article adds these words: “ The conventional interest rate must be fixed in writing. ”

This fixed word admits no limits other than those set by the parties.

I believe I have already proven that one could not, in this matter, argue based on the discussion of the Council of State, seeing that these discussions were only a controversy deliberately made to bring out the truth, and that the law which resulted from it was only a kind of test: what proves that this law was only a kind of test is that it is said: Whenever *the law does not prohibit it* ; which supposes that if, subsequently, this interest appears exorbitant, it could be prohibited, and it could become

exorbitant even if it falls or could fall to three, or four percent: I saw in Bordeaux the trade interest at four percent. As for the word fixed, it was usefully used, not to present a revolting arbitrariness, but on the contrary to set limits to greed as necessary; thus it means that if the parties agree on an annual interest of five one eighth, five one quarter, up to six percent, the agreement will be written, and that, otherwise, only five percent will be allocated. hundred.

Although I presume that everything I have just said does not bear much retort, I am going to suppose that I have absolutely erred, and that the rules of commerce must be taken into what is happening today in the square, so I would question this: The usurers setting the tone, the trade taking from eight to fifty percent, without understanding all the kinds of anatocism which enter into these kinds of speculation: in this eternal variation, where will take- do we have a rule?

Will we take eight percent as a rule? But in conscience we cannot; for the neighbor who is on the right takes seven and three quarters,

while the one who is on the left takes nine percent. Will we take fifty percent? same disadvantage; a disadvantage all the greater since the merchant who borrows earns at most, in his annual trade, only ten percent; and as the rule of which the law speaks cannot be taken in a continual variation, and as consequently it must be taken in a permanent order of things, we must be reluctant to take bases on the data presented: but I understand, we must take the proportional mean forty; This is as easy as it was for Archimedes to remove the earth by a machine, provided that it was given a point of support; thus, if someone wants to provide the minimum (which will be very easy) and the maximum (which will be very difficult) of usury, I agree that the thing is practicable; consequently I am ready to agree that my rule must be broken. But until I have been provided with the means I request, I say that the edict of 1770 is still in force: that there are two interests in France, legal interest and conventional interest. ; one is five percent, and the other is six percent at most.

CHAPTER XIII

How is Usury proven?

To use Ferrière's expression, usury having been considered the most dangerous poison to society, it was declared imprescriptible; so that thirty or forty years, more or less, after having been paid, it can be legally claimed.

In matters of usury, we have regard to singular testimonies, when there are more than ten different witnesses who testify on the same fact and we call singular witness one who testifies different facts which relate to the general fact: thus, when in one case it is a question of proving a continual habit, and that we deal with this habit in general, the genus is established by the proof of several species of particular facts; for, then, although the witnesses depose various facts, their testimony is admitted because these facts have the same kind of object, and tend to the same end. Thus, in matters of proof, when several parts tend to form a whole, these separate parts, which would

be of no use, make, by their assembly, a complete genre. *Ferrière* .

CHAPTER XIV

*What should be done with regard to
moneylenders, in relation to the past, the present
and the future.*

Whenever a practice, even an odious one, has been tolerated, it would be as unjust as it is impolitic to punish the person who engaged in it. Tolerance, in this respect, being equivalent to a law, the punishment which would be inflicted on the person who had benefited from it would carry with it as great a character of injustice as if he were punished for having benefited from an express law. Moreover, the disorders which would naturally follow this type of punishment prohibit any kind of retroactive effect in this regard. The disadvantages which followed the *visa* , during the fall of *Law's system* , prove these two truths to us; it is therefore useful to forget everything that has been done.

As for the present, it seems necessary to me to distinguish two species of individuals: money merchants or real usurers, and traders.

With regard to the first, it seems natural to me to declare that in commitments which are not settled, or which are settled but not due, the usury will be reduced, and that in the event of claims from the debtor, due to this that the usurer would contest this distraction, and that the matter was brought before the courts, if there the usury was proven, the usurer should be punished under the terms of the orders cited on pages 41 to 44:

In relation to merchants (in this situation, we should only recognize as a merchant or merchant the one who proves by his patent that he is such; usurers have none and have never been tempted to take one, whatever whether they call themselves bankers), commitments not settled, or being settled, but not due, it should be ordered that no claims be made between them, except in the case where it would obviously be proven that they had made mainly money trading. These two ways of proceeding seem extraordinarily fair to me. The first

who violated the law, quite voluntarily, must be punished for this violation; the latter, who only violated it because the former led them to this excess, must not be punished, because they yielded to force majeure. Moreover, this would disrupt trade calculations. When merchants compromised in this way, the lessee arranged to pay the overcharge that weighed on him, and the donor calculated on the income that he had to hope for and he had to calculate all the more thus, that he has only done to another merchant what has been done to himself. We could therefore not, without injustice and inconvenience, operate differently, it being fair that the weight of the vexation rests entirely on the heads of those who are its authors.

CHAPTER XV

Means to be used to destroy Usury. What interest rates should be established.

Since a disastrous experience has taught us about all the kinds of evils that usury brings with it, since all good minds feel the necessity of putting a brake on usurers, and since a great evil requires a great remedy, of which the effect be prompt and subtle, three rates should be established for the interest, following a law approximately similar to the one which follows; this law, which is from Louis XIII, states, article 151:

We forbid our subjects from all kinds of usury, nor from dealing in any form other than that prescribed by our ordinances, taking and receiving higher interest than from the denier sixteen, on pain of confiscation of the principal sums, and condemnation of fines, according to the quality of the sums and the usury, from

which our judges will not be able to exempt, who we enjoin to proceed with all severity. *However, we do not intend to understand in this article the deals that the requirements of our business oblige us to make, and the profits that we grant for this reason, and those with which we make the said deals in our advice.*

The first rate would be established in favor of agriculture;

The second in favor of trade;

The third in relation to pawnbroking.

The loan for agriculture should be at five percent because ordinarily this type of loan is made under mortgage or on the crop, and therefore the creditor has a security.

The loan for the trade should be at six percent. Two reasons seem to require this: 1. since trade must be carried out quickly, and consequently the merchant must be served promptly, it is necessary to give him even the advantage of being served before the farmer,

who will not decline, for a few days of delay, instead of the merchant being able to decline during the delay of a few hours; 2. because in lending to the merchant, there is more risk to be run than in lending to an owner, and the one percent more, which he will be permitted to give, will be the premium for the risk.

The pawnbroker should be fixed at four percent: several reasons seem to require it thus.

1. The creditor having in his hands a movable security, through the judicial or conventional sale which can be made of it, he is reimbursed much more easily, much more promptly, than if he had lent on a real security.
2. The merchant who, for example, commits his goods, being deprived of selling them in due time, finding himself deprived of the resources which they would have provided him, is already quite burdened.

3. This lower rate of interest, resulting from a very onerous condition of commerce, will be a useful obstacle to make it more rare: which is absolutely necessary; because such a loan being the result of the discredit of the merchant who is ready to succumb, by burdening him more than he should be burdened, it makes his position more unhappy, it makes his fall more terrible, finally, it means depriving, in the event of bankruptcy, the mass of its creditors to favor a few.

This order of things thus established, it should be declared that all persons who would have lent at usury would be condemned to irons, for a time proportionate to the rate which they would have taken above that fixed by law; and we can be quite sure that from the moment five to six usurers have been sent to the galleys, the

others will remain within the limits assigned to them.

Some people may no doubt find too great severity in the punishment that I present; but if they reflect on all that money can do to greedy men, they will agree that it will even be a lot if this means is able to stop some of them; and as there are two most common means of evading the law, 1. that of having notes made out for the entire amount of the usury, 2. that of having agents lend; here are the expedients suitable for discovering the truth of the facts.

In relation to notes between merchants, proof is easy to establish by the respective books, accounts and memoranda of the parties; as for those made by other individuals, it is quite obvious that there is no other procedure to follow than that which is followed in all other criminal matters, which are always practiced without witnesses.

As for loans made by agents, it should be declared that anyone who, before or after being denounced in court, names his principal, would be discharged, acquitted and would also receive

a certain sum. Moreover, if all these means are not suitable for stopping this type of crime, at least they are suitable for hindering it, and that is already a lot; in this circumstance, the law on usury will be like all the laws made in relation to other crimes. Although criminal laws punish murderers with death, there are murders every day; the perpetrators of the majority, although having carried out this excess without witnesses, are discovered, and a few, which is very rare, escape the avenging sword of the law.

CHAPTER XVI

Effects that will result from the removal of usury.

Whenever we thwart the greed of men, we put them in a very bad mood; and similar to the angry child who refuses, to take revenge on his peers, the food they offer him, they refuse the natural advantages that we want to give them; but, like children, led by hunger towards those from whom they had first moved away, deprived of the advantages which had first been offered to them, they end up hastening to receive them. A wise man spoke exactly when he said that children were often men, and men were often children.

Thus, if my project were ever adopted, we should expect to see the usurers (who are in much greater numbers than we think), in the first days, and even in the first months, tightening up their money: they 'won't put a penny into the place; but when they see that their treasure, far from remaining in the same state, will diminish every day: seeing that the

punishment they want to inflict falls mainly on them, the first use they will make of it will be in the land ; will the lands be valued at their fair value, the excess money will be paid into businesses, factories and factories; If all these industrial means are satisfied, then the stock exchanges will open to trade, and it will take at least about a year for all this to take place.

I base my presumptions on this great monetary principle.

Whenever money is touched, directly or indirectly, even simply to improve it, it initially results in great inconveniences; the good effects are only felt over time; then the prince benefits advantageously from the useful reforms he has made. Finally, the extirpation of economic disorders produces the same effect on the body politic as the extirpation of a polyp in the human body: the operation is initially painful, it sometimes leads the patient to the brink of death; but also once he has regained his health, he only becomes stronger and more robust. To perform this miracle, it is only a matter of properly preparing the individual in such a way

as to make him capable of receiving without danger the operation that it is essential to perform on him, if we do not want to see him perish.

ESSENTIAL OBSERVATIONS

If in the course of this pamphlet I allowed myself some satires, we have seen that I have directed them absolutely only against the usurers strictly speaking and not against the merchants nor against the people who, by their position, are forced to assert a few handfuls of crowns; nevertheless, as it would be possible that I had erred on some *principles of political economy or legislation*, it will be with as much respect as gratitude that I will receive the opinions of people who will take the trouble to give them to me.

One would undoubtedly be greatly mistaken if one thought that I consider those who speak and write in favor of usury to be supporters of usurers. I know a number of virtuous people who, despite hating usurers as cordially as I do, nonetheless proclaim principles diametrically opposed to mine; first because they believe they take them from the nature of things, and then because they hope to obtain the results that I hope to obtain myself

and since it is from the clash of opinions that the light of truth emerges. , those who wish to do me the honor of sending me memoirs tending to accredit or discredit my opinions, I will have them printed (with or without their name, as they decide), with my responses and my observations . These discussions thus made public will provoke others which will not be without utility.

Those who wish to do me the honor of writing to me, so that their letters and memoirs do not remain in the post, are asked to post them and send them to me Cloître St-Benoît, n° 7.